

## COUNCIL MEETING

MAY 14, 2014

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, May 14, 2014 at 9:28 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum (*present at 9:31 a.m.*)  
Honorable Mason K. Chock, Sr.  
Honorable Gary L. Hooser  
Honorable Ross Kagawa (*present at 9:29 a.m.*)  
Honorable Mel Rapozo  
Honorable JoAnn A. Yukimura  
Honorable Jay Furfaro

Chair Furfaro: May I ask for an approval of the agenda?

### APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Mr. Chock, and unanimously carried (*Mr. Bynum and Mr. Kagawa were not present*).

(*Mr. Kagawa was noted as present.*)

Chair Furfaro: We have a period here for public comment. We have a pretty long day today, but may I please ask you to read the Public Comment portion?

### PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Furfaro: Thank you. I believe we have seven (7) people signed up. Am I correct?

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: Yes.

Chair Furfaro: At the discretion of the Chair, I will allow all seven (7) people to have their three (3) minutes. On that note, may I ask for the first person to come up and speak?

Ms. Fountain-Tanigawa: The first person is Pat Gegen, followed by Patrick Stack.

*(Mr. Bynum was noted as present.)*

There being no objections, the rules were suspended to take public comment.

PAT GEGEN: Good morning, Council. For the record, my name is Pat Gegen. Thank you very much for allowing me this opportunity to talk. I would like to talk about two things. The first one would be Bill No. 2541, having to do with the Open Space Commission. I just implore you not to take away from that fund. It is something that is too important for the County moving forward. We need to continue to keep our accesses open and we need to continue purchasing property so that our visitors and our local people can enjoy the resources that we have. Thank you for that.

As the Chair of Zero Waste Kaua'i, I would like to talk on Bill No. 2542, which is increasing the tipping fee at the landfill. As my previous testimony that I sent in, I would suggest even raising it a little bit more, but with the idea of specifically funding positions and programs having to do with recycling, recapturing, and managing those materials rather than just putting them in the landfill. We need additional money to do that. I know it is hard to do that when we are as strapped as we are, but if you take a look at it, you consider the burden of having to pay additional money at the landfill. If we can then create and support positions, it would help those same businesses divert that material from the landfill. Their fees can actually go down based on the weight of stuff going into the landfill. We have got to look at those sustainable solutions going forward and I know we are at a tight time, so that might be one option to do something like that. With that, I thank you very much for my three (3) minutes and have a good day. Yes, it is going to be too long and that is why I spoke now.

Chair Furfaro: Thank you for your testimony on Bill No. 2541 and Bill No. 2542. Next speaker please.

Ms. Fountain-Tanigawa: The next speaker is Patrick Stack, followed Dorothea Hayashi.

PATRICK STACK: Good morning, Chair and Councilmembers. My name is Patrick Stack. I speak for myself today, even though I am a Commissioner on the Charter Review Commission. The only thing I really have to say is that there is under consideration, the possibility that certain commissioners will be precluded from testifying before you. I want to resist that. I think that every member of the community should have their day in the sun and be able to say what they want, and not be penalized because we are volunteers. That is all I have to say. Thank you for your consideration.

Chair Furfaro: Thank you for your volunteerism on our Commission, Pat.

Ms. Fountain-Tanigawa: The next speaker is Dorothea Hayashi, followed by Mr. Rosa.

DOROTHEA HAYASHI: Dorothea Hayashi. First of all, I am being really personal. I would like to thank Ross for his conscientiousness in trying to get our budget into line and for your brave efforts. I would like to thank Council Chair for always bringing up compromise, which is always possible between the two parties that always have contentions. First of all, I am here for Bill No. 2541. I was

not able to watch the program, but I heard that there were efforts being made here in Council Chambers to preserve our funds for the Open Space. I really appreciate this; however, may I throw in a suggestion at this time? I would really like to see the people who are blocking all of these accesses like these million dollar homes. They put in to the pot, the majority of the money rather than we local people. I feel that they are the ones that are causing these problems. As Chair Furfaro was so gracious enough to come forward to the Commission to speak on the access to the Falls, which everyone thought they had the right to visit the Falls; however, after everything was put down on paper and stamped, we found out that we cannot and the we know we are going to have to spend a lot of money to get the access to the Falls. Of course, we also visited Pāpa'a Bay. I went down the trail, which was a really nice walk; however, my concern on that one also is that the Hawaiians who had the right to go there and do their gatherings and their worshipping are now cutoff because of that path, which I... I can go down now, but can you imagine a seventy (70) or eighty (80) year old woman who wants to go down to practice what they have been doing traditionally. We realize that is also going to cost a big chunk of money because even the Hoban property, which the Commission is going to present to the Council is going to cost six figures already. That is what they came up with, but whether it is going to cost that much, we do not know but they have offered this huge amount. When you think about it, land today is expensive especially here on oceanfront Kaua'i. So I feel that these people who have their million dollar homes should contribute the majority to the pot, if you could consider that. Thank you.

Chair Furfaro:  
volunteerism.

Thank you, Dorothea. Thank you for your

Ms. Fountain-Tanigawa:  
Glenn Mickens.

The next speaker is Joe Rosa, followed by

JOE ROSA: Good morning, members of the Council. For the record, Joe Rosa. This is going to be the 29<sup>th</sup> time I have come in here to give testimony for Mr. Ernie Pasion. After twenty-eight (28) sessions, you the body is supposed to have made a decision. In the court of law, when there is a hung jury, they go free. If you cannot reach a verdict after twenty-eight (28) sessions, then something is wrong. People elect you people based on your integrity and in upholding the laws. Yet, nothing is done. How would you feel to be in his position just waiting and waiting when there is no "just cause" as to why? Also, the suspension that he got— what is the reason? No just cause again. The law emphasizes that you need just cause to suspend or get rid of an employee who is not doing his job and it is usually based on them not doing their job and not knowing their work. But in this case, Mr. Pasion has done an excellent job. When he started to rock the boat in two (2) of the audits that were printed, things started to shake around here. They saw an opportunity to get rid of him because of one (1) person that resigned. So they figured they could get two (2) birds with one (1) stone. Come on, that is a different thing that was involved. It was personalities and personalities are not ground for suspension or dismissal of any kind. It is two words— "just cause." I emphasize that because when I was with the Union, it was strictly enforced as the need of just cause. It is not personalities. Personalities will not hold in the court of law. What is taking so long? He has done seven (7) audits already and only two (2) have been made known to the public. The public keeps asking me, "When are they going to print the rest? We would like to know what is going on." It must have been approved by the Council, so it was printed in book form. What is holding it back? Somebody has to have the guts to authorize it and get it printed. What is all the hiding behind closed doors and closed sessions going

on? Those are the things that public wants to know. Remember, this is an election year.

Chair Furfaro: Thank you, Joe. Your three (3) minutes are up.

Mr. Rosa: Okay. Like I told them, while this is the chance...

Chair Furfaro: Joe, I am sorry. Your three (3) minutes are up and I...

Mr. Rosa: I thank you, Jay. I understand English.

Chair Furfaro: I made an exception to take all of the speakers.

Mr. Rosa: I understand English, Jay, but let me wrap it up.

Chair Furfaro: I am sorry, Joe.

Mr. Rosa: Be fair.

Chair Furfaro: Joe, I made the exception to the rule to take all seven (7) speakers this morning.

Mr. Rosa: I understand.

Chair Furfaro: I am just applying the rules. Next speaker please.

Ms. Fountain-Tanigawa: The next speaker is Glenn Mickens, followed by Alice Parker.

GLENN MICKENS: Good morning, Councilmembers. For the record, Glenn Mickens. You have a copy of my testimony. I know you cannot ask questions, but I will appreciate you studying it carefully and if you have any questions, I would really like to hear them or answers. Every person I talk to unanimously supports the hard work and results that our County Auditor Ernie Pasion has done his four (4) years in office. The seven (7) audits that he and his fine Staff did were approved and applauded by the Association of Local Government Auditors, who did an independent evaluation of the systems and quality assurance used by his office. This process is called "peer review," as provided by the "yellow book" issued by the Comptroller General of the United States. In the course of this fine work, Ernie and his team uncovered information indicating that the Mayor was wrongfully appropriating thousands of dollars of County gasoline, and then proceeded towards a full investigation of the situation. It appears this one episode has caused the launching of severe financial restrictions and other recriminatory steps by our government officials and yet we sit here today awaiting the unprecedented 29<sup>th</sup> Executive Session regarding Mr. Pasion in the Auditor's Office... the 29<sup>th</sup> time that our Council has chosen to go into secret sessions to discuss aspects of this aspect of the Auditor's function about which the public has never been informed. The biggest question that screams for an answer is why this legislative body is not as irate as the public and demanding to know why this

travesty started or continues. Where is the outrage from those we elect to back up a person who they unanimously choose for this position and who has done his job so well? His seven (7) audits are outstanding and they should have been on the Council agenda long ago for public comment and any action that needs to be taken. The people deserve to know why the Council is spending an apparently endless amount of time and effort in a seemingly unjustified recriminatory assault on the Auditor's Office for work that should be praised and supported. The County silence is, for me, shameful. I sit here making these testimonies as some members of the public and I would appreciate all members of the Council paying attention to what we are saying. I do not see that all of the time. Most of you do, but sometimes I see you preoccupied, so I would appreciate that. Thank you very much.

Ms. Fountain-Tanigawa: The next speaker is Alice Parker, followed by Luke Evslin.

ALICE PARKER: Alice Parker for the record. You know I am here to support Ernie Pasion. I know that the Council gets upset with what they consider unfounded suppositions by the public, but we are not privy to the information and we love Ernie. We do not understand how the Mayor can issue a forty percent (40%) reduction in the Auditor's budget when they have a conflict to begin with. The Mayor makes some budget suggestions too, but this looks really... well, this has a smell to it as far as the public is concerned. Without the adequate personnel, Ernie and the office cannot conduct the quality of audits that they had done before. The personality/personnel issue that is at issue now, I believe that the public does not know what is going on. We can conjecture, but just because there is a personnel issue does not mean that the budget should be cut as far as I am concerned. Thank you.

Ms. Fountain-Tanigawa: The last speaker is Luke Evslin.

LUKE EVSLIN: Luke Evslin, for the record. I am speaking on Bill No. 2541. While I am a member of Open Space Commission, I do not represent the Commission. I want to start off by saying thank you to those who created the Open Space Fund and who are now expressing strong support for it. We are losing open space and access because of development and land acquisition. The Public Access, Open Space, and Natural Resources Preservation Fund Commission exist to mitigate the impact of our rampant development. I understand our current budgetary constraints, but rather than raise revenue from those who necessitate the fund, developers and large landowners, instead you are putting the fund itself on the chopping block. By diverting sixty-six percent (66%) of the fund revenue, you avoid looking at the systematic issues that we are facing. Maybe we can get the budget balanced this year, but what happens next year? I believe we will stay in a constant state of budgetary paralysis until we explore a more progressive taxation system. Diverting fund revenue is a temporary budgetary fix for a permanent fiscal problem and by agreeing to divert the fund now, I do not believe it will ever come back. Please maintain the fund. Thank you for your time.

Chair Furfaro: Thank you for your volunteerism on the Commission.

Mr. Evslin: Thank you.

Chair Furfaro: Have we taken all seven (7) speakers that have signed up?

Ms. Fountain-Tanigawa: Yes we have.

Chair Furfaro: Thank you very much. Mauna Kea, may I ask if you can come up please?

Ms. Fountain-Tanigawa: Chair, did you want to approve the minutes?

Chair Furfaro: Yes. I will let him sit for the approval of the minutes.

There being no objections, the meeting was called back to order, and proceeded as follows:

MINUTES of the following meeting of the Council:

March 12, 2014 Council Meeting  
April 2, 2014 Special Council Meeting  
April 9, 2014 Council Meeting  
April 9, 2014 Special Council Meeting  
April 9, 2014 Public Hearing re: Bill No. 2534, Bill No. 2535, and Bill No. 2536  
April 11, 2014 Special Council Meeting  
April 23, 2014 Council Meeting  
April 23, 2014 Public Hearing re: Bill No. 2539, Bill No. 2541, Bill No. 2542, and Bill No. 2543

Mr. Rapozo moved to approve the Minutes as circulated, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: Madame Clerk, I would also like to receive the Consent Calendar as well please.

CONSENT CALENDAR:

C 2014-135 Communication (03/07/2014) from the County Engineer, transmitting for Council consideration, a Resolution Amending Resolution No. 97 (1981) By Removing A School Bus Stop On Awawa Road, Hanapēpē Valley Area, Waimea District, due to narrow access of the bus stop and safety concerns of bus drivers: Ms. Yukimura moved to receive C 2014-135 for the record, seconded by Mr. Chock, and unanimously carried.

C 2014-136 Communication (04/08/2014) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Mary K. Hertog to the Police Commission for the County of Kaua'i – Term ending 12/31/2015: Ms. Yukimura moved to receive C 2014-136 for the record, seconded by Mr. Chock, and unanimously carried.

C 2014-137 Communication (04/15/2014) from Council Vice Chair Chock, providing written disclosure of a possible conflict of interest and recusal relating to the Comprehensive Economic Development Strategies (CEDS) – Keiki to Career Workforce Readiness appropriation in the Office of Economic Development, Fiscal Year 2014-2015 Mayor's Operating Budget Submittal, as he is on the Leadership Council for the Keiki to Career – Workforce Readiness initiative: Ms. Yukimura moved to receive C 2014-137 for the record, seconded by Mr. Chock, and unanimously carried.

C 2014-138 Communication (04/16/2014) from Council Chair Furfaro, transmitting for Council consideration, proposed amendments to Subsections 8-15.1(b) and 8-15.1(d) of the Kaua'i County Code 1987, as amended, relating to Additional Dwelling Unit on Other Than Residentially Zoned Lots, to extend the sunset date to December 15, 2024, along with requirements for an annual recertification and payment of an administrative processing fee: Ms. Yukimura moved to receive C 2014-138 for the record, seconded by Mr. Chock, and unanimously carried.

C 2014-139 Communication (05/02/2014) from Council Chair Furfaro, transmitting for Council consideration, a Resolution Requesting The Establishment Of Annual Grants For Non-Profit Organizations To Enable Registered Beekeepers To Test Their Bee Pollen For Pesticides And Other Threats: Ms. Yukimura moved to receive C 2014-139 for the record, seconded by Mr. Chock, and unanimously carried.

Chair Furfaro: Mr. Trask, thank you for coming up. We would like to find ourselves this morning in the order of business going into a series of Executive Sessions, so I would like them all to be read first please.

There being no objections, the rules were suspended.

MAUNA KEA TRASK, First Deputy County Attorney: Yes, Chair. *Aloha* and good morning. For the record, First Deputy County Attorney Mauna Kea Trask. I will read the following Executive Sessions.

There being no objections, ES-722, ES-723, ES-724, ES-725, ES-726, ES-727, ES-728, ES-729, ES-730, ES-731, and ES-732 were taken out of the order.

#### EXECUTIVE SESSION:

ES-722 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and (8) and Kaua'i County Charter Section 3.07(e), the purpose of this Executive Session is to provide the Council with a briefing concerning the coverage provided by the County's insurance policy with Everest National Insurance company for attorneys' fees arising in connection with the lawsuit Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 JMS-RLP (United States District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-723 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding the claim against the County by Shane N. Matias, filed on June 2, 2010, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-724 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing in Eric Y. Shibuya vs. County of Kaua'i, et al., Civil No. 13-1-0345 (Fifth Circuit Court), and related matters. This briefing and consultation

involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-725 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the retention of special counsel to represent the County of Kaua'i in In Re application of County of Kaua'i for a Contested Case Hearing, regarding National Pollutant Discharge Elimination System (NPDES) Permit No. HI 0020257 and Zone of Mixing Permit No. ZM-30 for the Wailua Wastewater Treatment Plant located in Wailua, County of Kaua'i, State of Hawai'i, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-726 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing in Syngenta Seeds, Inc.; a Delaware corporation, et al. vs. County of Kaua'i, Civil No. CV14-00014 BMK (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-727 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8) and Kaua'i County Charter Section 3.07(e), the Office of the County Attorney, requests an Executive Session with the Council, to provide the Council with a briefing as it relates to the investigation of personnel matters involving the Office of the County Auditor, (including Ernesto G. Pasion vs. County of Kaua'i, et al., Civil No. 13-1-0340 (Fifth Circuit Court)), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-728 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(e), the purpose of this Executive Session is to provide the Council with a briefing on County of Kaua'i vs. Michael Guard Sheehan, et al., Civil No. 11-1-0098 (Condemnation), Fifth Circuit Court, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-729 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kauai County Charter Section 3.07(e), the purpose of this Executive Session is to provide the Council with a briefing in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV 13-00202 DKW BMK (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-730 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on Special Counsel's continued representation of Henry



Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-731 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(e), the purpose of this Executive Session is to provide the Council with a briefing and request for authority to settle the case of Verna Rita v. County of Kaua'i, Civil No. CV12-00605 BMK (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-732 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney, on behalf of the Council, requests an Executive Session to allow Special Counsel to provide the Council with a briefing in Syngenta Seeds, Inc., et al. vs. County of Kaua'i, Civil No. CV14-00014 BMK (U.S. District Court), including a discussion of potential strategies, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Chair Furfaro: Thank you very much. I want the County Attorney to know that my intention is, in fact, to deal with ES-732 and ES-726 first, as we have Special Counsel here that is on a travel schedule.

Mr. Trask: Yes, Chair.

Chair Furfaro: Are there any questions? Mr. Kagawa, followed by Mr. Hooser?

Mr. Kagawa: I have questions on ES-722. Mauna Kea or maybe Mona, you may want to come up just in case. Why do we need fifteen thousand dollars (\$15,000) more for Special Counsel? Why do we have to go into Executive Session if the case is settled? Is it settled?

Mr. Trask: I think there are two (2) questions there. I would prefer if we talk in Executive Session first, just because that is why we are here and that is the agenda item.

Mr. Kagawa: But my problem with all of the Executive Session items is that whenever we do not need to go into Executive Session, I believe we should answer it in the public. It is the taxpayers that are paying the bill, so they deserve to know what... as long as we are not jeopardizing the case, they deserve to know why they are being asked to pay another fifteen thousand dollars (\$15,000) for the Bynum lawsuit if it is settled.

Mr. Trask: Actually, may I have a moment?

Chair Furfaro: Excuse me. Let me answer that question, if I can. This item is a request by the Chair. The item deals with the fact that it is a review of the policy associated with our insurance company and the findings and understanding of what we can be reimbursed for. As far as coming back on the

agenda, if I recall, and I just confirmed with Jade, that vote ended up tied. Therefore, by our rules, this automatically comes back.

Mr. Trask: I think we are not requesting fifteen thousand dollars (\$15,000) for this case at this time.

Mr. Kagawa: We have sufficient funds?

Mr. Trask: Actually, I am not prepared to talk about the funding on that case today, but we are asking for money on the other ones, but not specifically for this one. I believe the agenda item is what the Chair is talking about.

Mr. Kagawa: I thought that it relates to... as I am reading word for word, C 2014-125 says that it relates to the Bynum lawsuit...

Mr. Trask: I think that was for...

Mr. Kagawa: Everest National Insurance Company...

Mr. Trask: There was a request to have outside counsel come in and review...

Chair Furfaro: Let me repeat it again. There are members here that voted on this and the vote was tied. The request is coming from the Chair for this money for the purpose of us to understand if we have a receivable or could have a receivable based on the review of the contract with our insurance company. The case is closed. This piece deals with the County and the insurance company and the details associated with the terms and conditions of our contract. It ended in a tie vote. It is required by our rules to come back.

Mr. Kagawa: I have another question. I have never been clear as to how much the final tab to the taxpayers has been for the Bynum lawsuit. We paid attorneys in the amount of five hundred thousand dollars (\$500,000), which caused a...

Mr. Hooser: Chair, I have a question. I do not think this is on the agenda.

Chair Furfaro: Let me get to a point of order here first. I want Mona up first.

Mr. Kagawa: I am just trying to find out where we are at and what additional moneys are being asked.

MONA W. CLARK, Deputy County Attorney: Well, at this point, the County Attorney is not submitting a request for additional funds from the County in connection with this lawsuit, so that is not on the agenda.

Mr. Kagawa: What is on the agenda is that we have a briefing because we are not completed whether any future attorneys' fees are being paid by Everest or whether the County taxpayers are going to be paying it.

Ms. Clark: What is on the agenda is whether there is going to be fifteen thousand dollars (\$15,000) approved by the County for coverage counsel to give advice to the County.

Mr. Kagawa: Why would we need coverage if there was no problem or no dispute?

Ms. Clark: That is what the Executive Session is about.

Mr. Kagawa: So our taxpayers cannot know how much of the tab we are trying to fight with the fifteen thousand dollars (\$15,000)? What are the fifteen thousand dollars (\$15,000) going to save the taxpayers or try to save to the taxpayers?

Mr. Trask: I think in answering your question, the Office the County Attorney would like to discuss these matters in Executive Session first. As the client, you hold the attorney-client privilege. It would be your decision later on whether or not to waive that. The appropriate procedure would be to talk about it first and then the body as a whole would make that decision whether or not to discuss it. We do not feel comfortable right now talking about these matters on the open floor prior to that process being gone through. It is not that the public cannot know later; it is just that we need to talk with you in Executive Session first, and then you as the body as the client can make that decision at a later time.

Chair Furfaro: Excuse me. I am going to intercede here. I am not going to read this item now, okay? We have Special Counsel here whose flight leaves at 11:12 a.m. We will not discuss this item and if we have to come out and have discussion again, we will. I want to take advantage of Special Counsel that is on the floor. I have explained it as I have posted it. This is for special coverage counsel to interpret the terms of our agreement. We have Special Counsel here who has to leave in one (1) hour and twelve (12) minutes. We will not go into Executive Session on this item at this time. Mr. Bynum, do you have a quick question or comment?

Mr. Bynum: I sought guidance about this particular posting and my intention is to recuse myself from this, but I think I would like the opportunity to offer public testimony about that as a member of the public. I do not intend to be in the Executive Session because I have had the guidance about that. I did not know that these were all going to get read at the same time this morning and I was trying to get the floor to say can we vote on them separately because I do not want to vote on that one because I have not gotten complete guidance. In terms of safety, I had to do what I have been advised to do, but I also believe that I have right to offer public testimony on that item as a member of the public. If you disagree with that, I will not do it, but that is the way I would like to handle it.

Chair Furfaro: The way I am handling it is that it is not even on the agenda right now. Mr. Hooser.

Mr. Hooser: I am not sure how we are going to vote on each of these separately, but I have a question on ES-725, the Kaua'i Contested Case Hearing regarding the National Pollutant Discharge Elimination System (NPDES). I would like some discussion on that, but I understand that Special Counsel is here, so we could postpone that discussion until after the Special Counsel.

Chair Furfaro: Yes. That is what I am suggesting now. Here I am trying to expedite things to have everything read so that when we go in and come out and read every item again. It is up to you, at this particular point in time, to agree with me or not that the item regarding the coverage counsel will not be covered in Executive Session today. We will have public testimony later today.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Rapozo moved to convene into Executive Session for ES-723, ES-724, ES-726, ES-727, ES-728, ES-729, ES-730, ES-731, and ES-732, seconded by Mr. Kagawa (*Chair Furfaro is noted as recused from ES-727*).

Chair Furfaro: Thank you, gentlemen, for that courtesy. Mauna Kea, we are going to go in now on the nine remaining items, starting with my request of ES-732 and ES-726 first.

The motion to convene into Executive Session for ES-723, ES-724, ES-726, ES-728, ES-729, ES-730, ES-731, and ES-732 was then put, and carried by the following vote:

|                            |   |            |
|----------------------------|---|------------|
| FOR EXECUTIVE SESSION:     | Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST EXECUTIVE SESSION: | None  | TOTAL – 0, |
| EXCUSED & NOT VOTING:      | None  | TOTAL – 0, |
| RECUSED & NOT VOTING:      | None  | TOTAL – 0. |

The motion to convene into Executive Session for ES-727 was then put, and carried by the following vote:

|                            |  |            |
|----------------------------|--|------------|
| FOR EXECUTIVE SESSION:     | Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura | TOTAL – 6, |
| AGAINST EXECUTIVE SESSION: | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING:      | None   | TOTAL – 0, |
| RECUSED & NOT VOTING:      | Furfaro  | TOTAL – 1. |

Chair Furfaro: Thank you. Members, please go directly into session.

There being no objections, the meeting recessed at 10:06 a.m. to convene in Executive Session.

The meeting reconvened at 1:36 p.m., and proceeded as follows:

Chair Furfaro: We are coming back into session. Jade, I want the members to realize that I am making an exception here. This morning, I had the rules read on Public Comment, Section “D.” This is on my discretion as the Chair. Could you read that again, please?

Ms. Fountain-Tanigawa: “Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when

the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e)."

*(Ms. Yukimura was noted as present at 1:37 p.m.)*

Chair Furfaro: Thank you. That is the rule and I want to make sure we all understand that. We had a very tight schedule today with counsel traveling, and this is for the County Attorney's information as well. Then to start that, we had to vacate the room and I asked people to leave or if they could step out. Gentlemen who signed up to speak this morning challenged me and I said that is the rule. "Well, what about the other Executive Sessions?" they said. I said, "I am following the rules." The rules said if you signed up to speak, you will get three (3) minutes and you are not able to speak on other agenda items. That is the rule. I am going to make an exception to the rule right now and allow each of you to have three (3) minutes. This is an exception at the Chairman's discretion. Do any of the gentlemen wish to speak today that spoke during the rules associated with the public accommodation, Section "D?" If you want to speak, that is my exception for today. I have no problem giving you the extra time. Most importantly, I want to make sure, there has been criticism about the rules. The rules are being followed. I am willing to make that exception. No one wishes to give additional testimony. Thank you very much. Okay, next item. I want to let you know that the coverage counsel bill, after talking to the County Attorney's Office, we are requesting a deferral for two (2) weeks to settle that item. Is that acceptable for you folks? First, let Jade read it again.

*(Mr. Bynum was noted as not present.)*

#### COMMUNICATIONS:

C 2014-125 Communication (04/17/2014) from the County Attorney, requesting authorization to expend funds up to \$15,000 to retain Special Counsel to advise the Council concerning coverage under the County's insurance policy with Everest National Insurance Company, in connection with the lawsuit Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 JMS-RLP (United States District Court), and related matters.

Chair Furfaro: I am asking for a deferral on that item.

Ms. Yukimura moved to defer C 2014-125, seconded by Mr. Chock, and carried by a vote of 6:0:0:1 *(Mr. Bynum is noted as recused)*.

Chair Furfaro: Thank you very much. I do also want to note that Mr. Bynum, after discussion with the County Attorney, his intention was to recuse himself from this discussion, I believe, until he gets further clarification. Go right ahead, Mr. Rapozo.

Mr. Rapozo: The companion item, Mr. Chair, ES-722— I would just make a motion to defer that as well.

Chair Furfaro: Thank you.

Mr. Rapozo moved to defer ES-722, seconded by Ms. Yukimura, and carried by a vote of 5:1:0:1 *(Mr. Bynum is noted as recused and Mr. Kagawa voted no)*.

Chair Furfaro:  
regular agenda for today.

Thank you. We will move right along on our

Ms. Fountain-Tanigawa: Chair, did you want to take up the approvals  
for Special Counsel at this time or go to the next agenda item?

Chair Furfaro: Is that the item that we are waiting for  
discussion from Mauna Kea on?

Ms. Fountain-Tanigawa: We have other Executive Session items that  
we...

Chair Furfaro: I just saw Mauna Kea walk in the door.  
Mauna Kea, may I ask you to come up please? When we broke, you were going to  
have a discussion with Jodi?

There being no objections, the rules were suspended.

Mr. Trask: Yes, Chair. I was not able to. I am having  
her come over here so she can speak with you.

Chair Furfaro: Okay. Thank you.

There being no objections, the meeting was called back to order, and  
proceeded as follows:

Chair Furfaro: Read us the items that we need to take votes  
on as it relates to the earlier Executive Sessions.

Ms. Fountain-Tanigawa: Okay.

There being no objections, C 2014-146 was taken out of the order.

#### COMMUNICATIONS:

C 2014-146 Communication (05/02/2014) from the County Attorney,  
requesting authorization to expend funds up to \$50,000 for Special Counsel's  
continued services provided in Eric Y. Shibuya vs. County of Kaua'i, et al.,  
Civil No. 13-1-0345 (Fifth Circuit Court), and related matters: Mr. Kagawa moved  
to approve C 2014-146, seconded by Mr. Rapozo, and carried by the following vote:

|                       |                               |             |
|-----------------------|-------------------------------|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa, |             |
|                       | Rapozo, Yukimura, Furfaro     | TOTAL – 7*, |
| AGAINST APPROVAL:     | None                          | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None                          | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None                          | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County  
of Kaua'i, Councilmember Bynum was not present but shall be recorded as an  
affirmative vote for the motion.)*

Chair Furfaro: Thank you very much.

Ms. Fountain-Tanigawa: We will be skipping over item C 2014-147.  
The next item is C 2014-148.

C 2014-148 Communication (05/02/2014) from the County Attorney, requesting authorization to expend funds up to \$35,000 for Special Counsel's continued services provided in Syngenta Seeds, Inc.; a Delaware corporation, et al. vs. County of Kaua'i, Civil No. CV14-00014 BMK (U.S. District Court), and related matters: Ms. Yukimura moved to approve C 2014-148, seconded by Ms. Chock.

Chair Furfaro:

Mr. Kagawa?

Mr. Kagawa: Chair, I am kind of concerned of what the total bill of fighting this thing will be and if it could have been prevented at least in totality at the end.

Chair Furfaro: Okay. Any further discussion? If not, may I have a roll call please?

The motion to approve C 2014-148 was then put, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Rapozo,<br>Yukimura, Furfaro | TOTAL – 6*, |
| AGAINST APPROVAL:     | Kagawa   | TOTAL – 1,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

Ms. Fountain-Tanigawa: The next item is on the top of page 4. Excuse me, I skipped over that.

There being no objections, C 2014-145 was taken out of the order.

C 2014-145 Communication (05/02/2014) from the County Attorney, requesting authorization to expend funds up to \$15,000 for Special Counsel's continued services provided in for the claim against the County by Shane N. Matias, filed on June 2, 2010, and related matters: Ms. Yukimura moved to approve C 2014-145, seconded by Mr. Chock, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0.  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

Ms. Fountain-Tanigawa: The next item is C 2014-149.

*(Chair Furfaro was noted as recused from discussion C 2014-149 at 1:46 p.m.)*

C 2014-149 Communication (05/02/2014) from the County Attorney, requesting authorization to expend funds up to \$25,000 for Special Counsel's continued services to advise and represent the County Council in matters relating to the investigation of personnel matters involving the County Auditor's Office, and related matters (including Ernesto G. Pasion vs. County of Kaua'i, et al., Civil No. 13-1-0340 (Fifth Circuit Court)), and related matters: Mr. Rapozo moved to approve C 2014-149, seconded by Ms. Yukimura, and carried by the following vote:

|                       |   |             |
|-----------------------|---|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura | TOTAL – 6*, |
| AGAINST APPROVAL:     | None  | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None  | TOTAL – 0.  |
| RECUSED & NOT VOTING: | Furfaro   | TOTAL – 1.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

*(Chair Furfaro was noted as present at 1:47 p.m.)*

Ms. Fountain-Tanigawa: The next item is C 2014-150.

C 2014-150 Communication (05/02/2014) from the County Attorney, requesting authorization to expend funds up to \$15,000 for Special Counsel's continued services provided in County of Kaua'i vs. Michael Guard Sheehan, et al., Civil No. 11-1-0098 (Condemnation), Fifth Circuit Court, and related matters: Ms. Yukimura moved to approve C 2014-150, seconded by Mr. Chock, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0.  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

Ms. Fountain-Tanigawa: The next item is on page 5, C 2014-152.

C 2014-152 Communication (05/02/2014) from the County Attorney, requesting authorization to expend funds up to \$50,000 for Special Counsel's continued services to represent Henry Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters: Mr. Rapozo moved to approve C 2014-152, seconded by Ms. Yukimura.

Chair Furfaro: If there is no discussion, may I ask for a roll call vote please?

Mr. Rapozo: Are we on C 2014-152?



Ms. Yukimura: Yes.

Mr. Rapozo: What was the motion again?

Chair Furfaro: To approve.

Mr. Rapozo: We were going to defer that one.

Ms. Yukimura: I thought it was C 2014-151?

Chair Furfaro: I think there was confusion between  
C 2014-151 and C 2014-152.

Ms. Yukimura: Yes.

Chair Furfaro: I will give the floor to Mr. Rapozo.

Mr. Rapozo: The motion was made, but I would ask that  
we withdraw that motion before the vote was completed. Who made the motion?

Ms. Yukimura: I think you did and I seconded it.

Mr. Rapozo: Okay. Mr. Chair, I know it is going to be  
deferred, but I just wanted to make a comment. I will be supporting the deferral. I  
do have a concern and I do want to make it on the public record that the attorney  
retained for this case was Mr. Richard Nakamura, who I have some serious  
concerns with, as far as his ability to represent this County. I will not be  
supporting any funding for this case, as long as Mr. Nakamura is on the case. My  
comments, opinions, or feelings have been relayed to the First Deputy County  
Attorney hence the request for the deferral, which again, I plan to support. Thank  
you.

Chair Furfaro: There is motion for a deferral.

Mr. Rapozo: There is no motion.

Chair Furfaro: I will entertain a motion to defer now.

Mr. Rapozo withdrew his motion to approve C 2014-152 and Ms. Yukimura  
withdrew her second.

Mr. Chock moved to defer C 2014-152, seconded by Ms. Yukimura, and  
unanimously carried (*Mr. Bynum was not present*).

Ms. Fountain-Tanigawa: I am sorry, Councilmember Rapozo. I  
misread. It is on page 4 at the bottom, C 2014-151.

C 2014-151 Communication (05/02/2014) from the County Attorney,  
requesting authorization to expend funds up to \$50,000 for Special Counsel's  
continued services provided for Defendant Chris Calio in Lynell Tokuda, et al. vs.  
Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and  
related matters: Mr. Chock moved to approve C 2014-151, seconded by Mr. Rapozo.

Chair Furfaro: Mr. Kagawa, did you want to say something?

Mr. Kagawa: It is ironic that today we had the National Police Week recognized because in this kind of case, nobody really wins. It is tough on both families. That is why we appreciate the police for doing what they do and sacrificing and their families sacrificing what they sacrifice. Yes, they do deserve the big bucks because there is a big impact on their lives. Thank you.

Chair Furfaro: Thank you. Further discussion? Roll call vote please.

The motion to approve C 2014-151 was then put, and carried by the following vote:

|                       |   |             |
|-----------------------|---|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None  | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None  | TOTAL – 0.  |
| RECUSED & NOT VOTING: | None  | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

Mr. Rapozo: Chair, can I have a brief moment?

Chair Furfaro: Yes.

Mr. Rapozo: It is really to explain to the public. I know the public will look at this today and add up the numbers.

Chair Furfaro: I was hoping to explain that.

Mr. Rapozo: Okay.

Chair Furfaro: For the general public, the reason that the numerous Executive Sessions are on the floor today were based on the fact that there was an outline and format that was put forth for discussion from the County Council, in particular from myself, to find out, especially since we have a new First Deputy, exactly where we stand on all the law issues that are in front of us at this point in time. Under the new conditions that were outlined in my request that we are to get a strategic overview when the financial moneys hit an estimate of sixty-five percent (65%) of what was set aside to defend those cases. To do that and to have a new starting format, all of these cases were put on to review the strategic plans, thoughts, positioning, and the options that were available to us. Please understand that this was really an exercise to review where we were with every case based on the financial forecasting that I had put together was amended and accepted by the County Attorney's Office. Mr. Rapozo, I will give you extra time to add to that?

Mr. Rapozo: I am fine, Chair.

Chair Furfaro: Mr. Kagawa, I will give you extra time to add to that.

Mr. Kagawa: I just wanted to thank you and Mauna Kea for that list. Is it not nice that today we got to see all of those various cases and we

kind of got a feeling as to where each case stands, how much more to go, and where the next steps are. I think prior to having that, I think every time we kind of had to guess at what point we were, but today I pretty much have a better understanding of each case. Thank you, Chair. Thank you, Mauna Kea. Good work.

Chair Furfaro:

JoAnn, you have the floor.

Ms. Yukimura: Chair, I want to reiterate Councilmember Kagawa's point. It is a much easier process. It gives us a much better picture for making our decisions. It is a big systems improvement, so thank you to you, Chair, and to the First Deputy County Attorney Mauna Kea Trask because this will serve us well in perpetuity hopefully.

Chair Furfaro: I also want to thank Peter Morimoto for helping to work on that. I want you to know that the two (2) lawyers in the group now understand in hotel terms what we call a "booking ticket." You get periodic reviews and you expect a payment on their deposit, so you can track the financial performance of a group business. It is a modification and high blend of all the legal terminology that was put in by Mr. Morimoto and Mauna Kea. I think we have a clear line now as we get close to the end of the year. That was an opportunity just to explain why they were all on the list today. At that point, I just want to say thank you to everybody and we have people here that are here for other agenda items. Glenn, before you leave, I would like you to understand that I would first like to cover the bills that are associated with the budget. We have worked on budget items for two (2) days and I would like to go forward on those items in some term. Is someone going to contact Mr. Bynum here?

Ms. Yukimura:

I have.

Chair Furfaro:

You have?

Ms. Yukimura:

I just did.

Ms. Fountain-Tanigawa:

He has been called by Staff also.

Ms. Yukimura:  
twenty (20) minutes.

He said he will be here in fifteen (15) to

Chair Furfaro: Okay. Let us clean up some other items here if we can, but when he arrives, I want to go to the money bills associated with the budget.

Ms. Fountain-Tanigawa:

Chair, we are back on page 5, Claims.

#### CLAIMS:

C 2014-153 Communication (04/14/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Kaua'i Island Utility Cooperative, for damage to their property, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2014-153 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chock, and carried by a vote of 7:0:0 (*Mr. Bynum was not present*).

C 2014-154 Communication (04/17/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Alamo Rental

Damage Recovery Unit, for damages to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2014-154 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chock, and carried by a vote of 7:0:0 (*Mr. Bynum was not present*).

C 2014-155 Communication (04/24/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Benjamin & Deborah Gillikin, for damages to their vehicle and personal injury, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2014-155 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chock, and carried by a vote of 7:0:0 (*Mr. Bynum was not present*).

C 2014-156 Communication (04/30/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Jean and Michael Legaspi, for damages to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2014-156 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chock, and carried by a vote of 7:0:0 (*Mr. Bynum was not present*).

C 2014-157 Communication (05/05/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Kenneth M. VandenBussche, for damages to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2014-157 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chock, and carried by a vote of 7:0:0 (*Mr. Bynum was not present*).

Chair Furfaro: Thank you. Next item please.

Ms. Fountain-Tanigawa: This brings us back to page 3, C 2014-140.

#### COMMUNICATIONS:

C 2014-140 Communication (04/16/2014) from the Director of Parks and Recreation, requesting Council approval to purchase the following equipment:

- 1) Chipper for the bucket truck to be used by the tree trimming crew in the amount of \$51,000; and
- 2) Utility Truck to be used by the Irrigation Repair Specialist, for a one-year lease payment in the amount of \$42,000, to carry tools, pipes, and parts to complete repairs and efficiently perform related duties.

Mr. Kagawa moved to approve C 2014-140, seconded by Mr. Rapozo.

Chair Furfaro: Discussion anyone?

Mr. Kagawa: I have a question for Lenny.

Chair Furfaro: Okay.

Mr. Kagawa: Lenny, this one came from our government watchdogs. They said, "Is forty-two thousand dollars (\$42,000) for a one-year lease not high?"

There being no objections, the rules were suspended.

LEONARD A. RAPOZO, JR., Director of Parks & Recreation: Yes. That is not correct. The cost of the truck is forty-two thousand dollars (\$42,000). If we sent the communication over in error, I believe the one-year lease is nine thousand dollars (\$9,000) for the first year.

Mr. Kagawa: Nice catch. I have no more questions.

Chair Furfaro: Okay. Very good. Lenny, we have a second question from Councilmember Yukimura. I want to get consistent on these things. Sometimes they send over communications with the whole amount for the lease even though it is scheduled and accrued over the four (4) years and sometimes they only send over the current year for the one-year for the item. We have to get consistent about that. JoAnn, you have the floor.

Ms. Yukimura: Just to understand, is it a four-year lease?

Mr. L. Rapozo: I believe it is a five (5) year lease.

Ms. Yukimura: Okay. We are approving it for this whole five (5) years, but with the understanding that it is nine thousand dollars (\$9,000) a year payment.

Mr. L. Rapozo: Yes.

Ms. Yukimura: Okay. Thank you.

Chair Furfaro: Any other questions here? Do we have any more testimony? None. If not, let us take a vote.

The motion to approve C 2014-140 was then put, and unanimously carried (*Mr. Bynum was not present*).

Chair Furfaro: Next item please.

Ms. Fountain-Tanigawa: The next item is C 2014-141.

C 2014-141 Communication (04/21/2014) from the Director of Finance, requesting Council approval to accept a monetary donation, in the amount of \$5,627, from 'Ohana O Kaua'i for overtime expenses incurred by the Kaua'i Police Department and the Department of Public Works for the Mana March held on September 8, 2013: Ms. Yukimura moved to approve C 2014-141 with a thank-you letter to follow, seconded by Mr. Chock.

Chair Furfaro: JoAnn, you have the floor.

Ms. Yukimura: I want to commend 'Ohana O Kaua'i as a fine example of taking responsibility for their impacts. It is a very fine example.

Chair Furfaro: Did you want to speak Mr. Hooser?

Mr. Hooser: Yes. I would like to echo my *mahalo* to 'Ohana O Kaua'i, especially to Fern Rosenstiel and Dustin Barca who have both been leaders in this area and who have stepped up and fulfilled a responsibility. Thank you.

Chair Furfaro: Thank you. Any further discussion?

Mr. Rapozo: Chair, mine is more of a broad discussion. I am obviously going to vote to approve this today, but there is a process in place that the Police Department, within the County, for entities that would like to use the services of the Police Department. As we move forward in these tough times— I see... we had a budget... in the proposed budget for special events and security, there was a line item. There is a process at the Police Department where contractors and event coordinators can utilize the services of the Police by hiring them off-duty, meaning they provide the insurance and they pay an hourly wage, which is agreed upon, I believe, by the Collective Bargaining Agreement. They are responsible for those officers that they hire for the day; for the event. There are no fringes involved. If the officer gets hurt, it becomes the *kuleana* of the contractor, not the County. I really think that discussion needs to be brought up going forward. I realize that many of the events that are held on the island offer the services of our Police Department, but there is a process in place. On O'ahu, you cannot have a construction job on the highway without police. In the old days, JoAnn, you probably remember when you were the Mayor— it was also the requirement if they were moving equipment. They would have to hire police officers. We deviated from that now. We see pick-up trucks escorting big equipment and we see the County offering police services to events that generate revenue. I think we need to have that discussion with Finance and with the Police Department that we need to setup a policy of what qualifies for these types. This was a donation and I much appreciate that. If we have any event that requires police, then we should require these organizations to utilize off-duty force as, like I said, the policy that is in place. Thank you.

Chair Furfaro: I agree. Mr. Chock.

Mr. Chock: Thank you, Chair. I just have a follow-up on that. I think it is a great idea. Part of what I think needs to happen is to have some foresight as some of these emerging issues start to come to the forefront. There are a lot of different entities involved in it. In this case, there could have been a few companies that could have contributed to the need here. So if we can foresee as these issues arise and start to put together that procurement or at least an understanding that this is their *kuleana* because this is an issue that comes from their arena, that we could at least make the request for them to participate. It will affect our budget. It has affected our budget, so it is important for us to look at moving forward. Thank you.

Chair Furfaro: Again, I think Mr. Rapozo's comments on the procedure in the budget are there, especially for special events. The item that needs to be clarified is when the Council feels we need public safety responses for a Council event, these donations are taken after the fact and much appreciated. Policy review— well taken, Mel, and thank you for bringing that up. If there is no more discussion, may I ask for a roll call vote please?

The motion to approve C 2014-141 with a thank-you letter to follow was then put, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

Chair Furfaro: Next item please.

C 2014-142 Communication (04/21/2014) from the Executive on Transportation, requesting Council approval to receive, indemnify, and expend additional Federal Transit Administration (FTA) Section 5311 funds, in the amount of \$332,634, from an existing grant being provided to the County of Kauaʻi, to utilize for public transit operations, driver salaries and fringe costs on existing positions, and other transit operating expenses: Ms. Yukimura moved to approve C 2014-142, seconded by Mr. Kagawa, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

Chair Furfaro: Thank you. Next item please.

C 2014-143 Communication (04/24/2014) from the Housing Director, requesting Council approval to apply for, receive, expend, and indemnify the United States Department of Housing and Urban Development (HUD) grant funds, in the amount of \$133,000, for the continuation of the two (2) salaries for the Housing Choice Voucher Family Self-Sufficiency (HCVFSS) Program Coordinators, to continue to enable participating low-income families to increase their earned income, reduce or eliminate the need for welfare assistance and rental subsidies, and make progress towards economic independence and self-sufficiency: Ms. Yukimura moved to approve C 2014-143, seconded by Mr. Kagawa.

Chair Furfaro: JoAnn, you have the floor.

Ms. Yukimura: I just wanted to point out how important these Federal moneys are. They are paying for two (2) positions in our Housing Agency and they involve a very important program of helping our low-income families achieve economic self-sufficiency, so it is very important. Our Housing Agency has already had to give up two (2) positions because of the tight budget, so these Federal funds are much appreciated and very valuable.

Chair Furfaro: Further discussion? Anyone wishing to testify on this item? If not, I am going to go ahead on the one hundred thirty-three

thousand dollar (\$133,000) continuation for this grant for salaries by having a roll call vote please.

The motion to approve C 2014-143 was then put, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*

Chair Furfaro: Thank you. Next item please.

C 2014-144 Communication (04/29/2014) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal Highway Safety grant funds from the State of Hawai'i Department of Transportation, in the amount of \$124,813, to fund a 1.00 Full Time Equivalent (FTE) Special Prosecuting Attorney salary and associated benefits, as well as travel and training costs to assist in handling the increased case load of vehicular crimes on Kaua'i: Mr. Chock moved to approve C 2014-144, seconded by Ms. Yukimura.

Chair Furfaro: Mr. Kagawa, you have the floor.

Mr. Kagawa: I just want to thank Justin and the Office for applying for these grants and trying to take care of an important need of back load cases. It is funny to know that we can clear up the back load on our end, but they say the courts are plugged. I guess we can do what we can do on our end and be ready. Thank you for that, Justin.

Chair Furfaro: Thank you for recognizing his efforts there.  
JoAnn, you have the floor.

Ms. Yukimura: I just want to say that vehicular crimes affect both visitors and residents and are a huge disruption to people's lives. To have a focus on addressing this is very important.

Chair Furfaro: Can I have a roll call vote, please?

The motion to approve C 2014-144 was then put, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative vote for the motion.)*



Chair Furfaro:  
Reports next.

Thank you. Let us go to the Committee

COMMITTEE REPORTS:

PLANNING COMMITTEE:

A report (No. CR-PL 2014-03) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2539 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. PM-2004-370, AS AMENDED BY ORDINANCE NO. PM-2010-400, AND ORDINANCE NO. PM-2005-374, RELATING TO THE KUKUI‘ULA WORKFORCE HOUSING,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Chock, and unanimously carried\*.

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua‘i, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

A report (No. CR-PL 2014-04) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2541 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION FUND,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Chock, and unanimously carried\*.

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua‘i, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2014-04) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Approved as Amended on second and final reading:

“Resolution No. 2014-26 – RESOLUTION ESTABLISHING CROSSWALKS, BUS STOP, SHARED-USE PATHS, ONE-WAY TRAFFIC LANE, AND INTERSECTION MODIFICATIONS ON ‘EIIWA STREET, LIHU‘E DISTRICT, COUNTY OF KAUAI,”

Mr. Chock moved for approval of the report, seconded by Mr. Kagawa, and unanimously carried\*.

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

A report (No. CR-PWPR 2014-05) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Approved on second and final reading:

“Resolution No. 2014-28 – RESOLUTION ESTABLISHING CROSSWALKS, REVERSE ANGLE PARKING, BICYCLE LANES, AND INTERSECTION MODIFICATIONS ON HARDY STREET, LIHU'E DISTRICT, COUNTY OF KAUA'I,”

Mr. Chock moved for approval of the report, seconded by Mr. Kagawa, and unanimously carried\*.

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE:

A report (No. CR-FED 2014-24) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Received for the Record:

“FED 2014-02 Communication (04/14/2014) from Council Chair Furfaro and Councilmember Yukimura, requesting the presence of the Director of Economic Development to provide a briefing on the Creative Technology Center and the Fiscal Year 2014-2015 requested budget appropriation,”

Mr. Rapozo moved for approval of the report, seconded by Mr. Chock, and unanimously carried\*.

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

Chair Furfaro:

Mr. Kagawa, did you want to say something?

Mr. Kagawa: We have to be fair when we say why the State did not fund this creative technology center and I think Senator Kouchi explained it well that they were not even ready yet. I guess the Legislature plans to do their best to try to fund it at some point, but being that they did not even know what site they were going to be taking and what have you. Councilmember Rapozo had that same discussion as well. I think there are plans to help the creative technology center. Thank you.

Chair Furfaro:  
Councilmember Rapozo?

Did you want to add to that conversation,

Mr. Rapozo: Yes, I will. I think that what we say on this table does not take long to cross the ocean to the Legislature in Honolulu and I guess that is almost like a caution that when we blast our legislators, they do hear. I did get a call from Senator Kouchi in defending their non-funding of this. I think Mr. Kagawa touched on it well, but the County has committed one hundred fifty thousand dollars (\$150,000) and I am just hoping that the Legislature sees that the County has stepped up and that when this study is completed and a site is selected, then our Legislature will agree to fund it. I appreciate the clarification because I think we were a little harsh on them, especially Ross and I at the last meeting. Thank you for clarifying that.

Chair Furfaro: Well, as Chairman of the Council, I want to thank both of you gentlemen for your work in the Committee. Your words are well-taken, but we all need to make sure the fact of the matter is that this is an opportunity we need to continue to pursue. Thank you, gentlemen. Further discussion? If not, roll call vote please.

The motion to approve CR-FED 2014-24 was then put, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

A report (No. CR-FED 2014-25) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2543 – A BILL FOR AN ORDINANCE AMENDING SECTION 5-2.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY MOTOR VEHICLE WEIGHT TAX,”

Mr. Rapozo moved to approve CR-FED 2014-25, seconded by Mr. Chock, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2014-04) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“Bill No. 2542 – A BILL FOR AN ORDINANCE AMENDING SECTION 21-9.2 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT,”

Mr. Rapozo moved to approve CR-COW 2014-04, seconded by Ms. Yukimura, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

A report (No. CR-COW 2014-05) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

“COW 2014-02 Communication (04/24/2014) from Council Chair Furfaro, requesting the presence of the Director of Finance to provide a briefing on questions and responses provided to bond rating agency Fitch Ratings and any indications as to the movement of the County's bond rating,”

Mr. Rapozo moved to approve CR-COW 2014-05, seconded by Ms. Yukimura, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7*, |
| AGAINST APPROVAL:     | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

*(\*Pursuant to Council Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Bynum was not present but shall be recorded as an affirmative for the motion.)*

*(Mr. Bynum is noted as present at 2:15 p.m.)*

RESOLUTIONS:

Resolution No. 2014-26, Draft 1 – RESOLUTION ESTABLISHING CROSSWALKS, BUS STOP, SHARED-USE PATHS, ONE-WAY TRAFFIC LANE, AND INTERSECTION MODIFICATIONS ON 'EIIWA STREET, LIHU'E DISTRICT, COUNTY OF KAUAI: Ms. Yukimura moved to adopt Resolution No. 2014-26, Draft 1, seconded by Mr. Bynum, and carried by the following vote:

|               |                               |
|---------------|-------------------------------|
| FOR ADOPTION: | Bynum, Chock, Hooser, Kagawa, |
|---------------|-------------------------------|

|                       |                           |            |
|-----------------------|---------------------------|------------|
|                       | Rapoza, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION:     | None                      | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None                      | TOTAL – 0, |
| RECUSED & NOT VOTING: | None                      | TOTAL – 0. |

Resolution No. 2014-28 – RESOLUTION ESTABLISHING CROSSWALKS, REVERSE ANGLE PARKING, BICYCLE LANES, AND INTERSECTION MODIFICATIONS ON HARDY STREET, LIHU'E DISTRICT, COUNTY OF KAUAI: Ms. Yukimura moved to adopt Resolution No. 2014-28, seconded by Mr. Chock.

Chair Furfaro: Mr. Kagawa, you have the floor.

Mr. Kagawa: I just wanted to thank Public Works. I think we gave the public two (2) weeks of television time to let them know what exactly was happening and that it is actually going into motion, all of the construction, at the end of this month. I want to thank you guys. Doug, I know you explained it to me about five (5) months ago in detail, but I think I needed the public to have a chance to see what is happening and give them time to contact us if they had any concerns. I am happy. Good luck on the project.

Chair Furfaro: Thank you.

Ms. Yukimura: I do have something to say.

Chair Furfaro: Go ahead.

Ms. Yukimura: This is somewhat of a personal privilege, but it is related to this item. I believe there is a parking audit going on today and there is going to be a public workshop tomorrow from 9:30 a.m. to 11:30 a.m. Where again? Mōīkeha Building A and Building B. I believe the public is invited, but it is discussion these issues related to parking and the Lihu'e Town Core Plan. It is courtesy or through a grant from Smart Growth America. If anybody would like to join in on the conversation, that is happening tomorrow from 9:00 a.m. to 11:30 a.m., Mōīkeha Building A and Building B. Thank you.

Chair Furfaro: I also want to say thank you to Doug, Lyle, and all of you again. I will not be at the conference. I have my tough questions here. I want to also recognize Mr. Kagawa for his focus on this, but you guys did a very good job and I am glad we are at where we are at. On that note, may I have a roll call vote please?

The motion to adopt Resolution No. 2014-28 was then put, and carried by the following vote:

|                       |   |            |
|-----------------------|---|------------|
| FOR ADOPTION:         | Bynum, Chock, Hooser, Kagawa, Rapoza, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION:     | None  | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None  | TOTAL – 0, |
| RECUSED & NOT VOTING: | None  | TOTAL – 0. |

Resolution No. 2014-30 – RESOLUTION AMENDING RESOLUTION NO. 97 (1981) BY REMOVING A SCHOOL BUS STOP ON AWAWA ROAD, HANAPEPE VALLEY AREA, WAIMEA DISTRICT: Mr. Rapoza moved to adopt Resolution No. 2014-30, seconded by Ms. Yukimura, and carried by the following vote:

|                       |  |            |
|-----------------------|--|------------|
| FOR ADOPTION:         | Bynum, Chock, Hooser, Kagawa,<br>Rapoza, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION:     | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0, |
| RECUSED & NOT VOTING: | None   | TOTAL – 0. |

Resolution No. 2014-31 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE POLICE COMMISSION (*Mary K. Hertog*): Mr. Bynum moved to adopt Resolution No. 2014-31, seconded by Ms. Yukimura.

Chair Furfaro: This is a very impressive nominee. I want to thank the Mayor and the great addition to the Police Commission. She has my full support. Any other comments? Mr. Bynum.

Mr. Bynum: I just want to thank Ms. Hertog for stepping up. She was a Command in the United States Military; very impressive. She was in Law Enforcement and an outstanding selection for the Police Commission. I appreciate her service.

Chair Furfaro: Any further comments?

Ms. Yukimura: I think we have longed called for having a woman on the Police Commission, so I just want to note that is being accomplished and we need that kind of perspective as well.

Chair Furfaro: Thank you. Any further comments? Seeing none, may I have a roll call vote please?

The motion to adopt Resolution No. 2014-31 was then put, and carried by the following vote:

|                       |  |            |
|-----------------------|--|------------|
| FOR ADOPTION:         | Bynum, Chock, Hooser, Kagawa,<br>Rapoza, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION:     | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0, |
| RECUSED & NOT VOTING: | None   | TOTAL – 0. |

Resolution No. 2014-32 – RESOLUTION REQUESTING THE ESTABLISHMENT OF ANNUAL GRANTS FOR NON-PROFIT ORGANIZATIONS TO ENABLE REGISTERED BEEKEEPERS TO TEST THEIR BEE POLLEN FOR PESTICIDES AND OTHER THREATS: Ms. Yukimura moved to adopt Resolution No. 2014-32, seconded by Mr. Chock.

Chair Furfaro: We have one (1) person who wants to give public testimony. Come right up.

There being no objections, the rules were suspended.

JAMES TRUJILLO: James Trujillo for the record. I was talking to Chris D'Angelo earlier today. He was asking me, "Where did this come from?" I suggested that this was the initiative that Chair Furfaro had taken based on some work that the Beekeepers Association had initiated with a Pesticide Registry Bill. This was years ago that we started taking petitioned signatures from folks who were in support of having some type of registry and some type of understanding of what is

being used out there. Obviously, we recognize the value that bees provide for food production for agricultural purposes that with the risks that they are at in the agricultural setting. We need to do all that we can to protect them so that we have pollinators for food production, in addition to value-added products such as honey or mead. Some people do enjoy that. There are other items that bees provide for us, but primarily, pollination is critical. Knowing that healthy bees are indication of a healthy environment—we want to know. I appreciate the work you have undertaken, Chair Furfaro, and doing the research and talking with the State Apiaries—Danielle Downey and her technician Lauren Rusert. Councilmember Yukimura, I appreciate the articles that you sent me recently about pollinators and bees and the work that is going on. I had the good fortune this morning to host Representative Tulsi Gabbard, who is on island. We did a tour of the apiary at Kaua'i Community College (KCC). It is an issue of great importance. Obviously as a beekeeper, I am one that is going to be here, if I can, to help us understand better that the things we are doing right now are not enough in regards to encouraging more beekeeping activities to facilitate the growth of our honey production and value-added products that come along with that, whether it is trained beekeepers who remove bees from people's residences or in places where they are not welcomed or wanted. The method or mode that most people think about first if they see bees is, "I do not want them here," and grab a can of Raid or something easy to get rid of them. All they have to do is contact the beekeeper and they might be able to find someone to remove those bees that are unwanted. At the same time, there are things that we can be doing in addition to what this Resolution is asking for that could support beekeepers. I would like this body to consider some of those things, whether it is as simple... I mean it is not so simple to change a zoning ordinance that prohibits apiary activities in a residential setting. That is an agricultural activity and our Comprehensive Zoning Ordinance (CZO) suggests that that is not an encouraged activity and requires a public hearing and having to sit in front of the Planning Commission to have that public hearing. If we can work on maybe making some changes...

Chair Furfaro: James, your alarm did go off.

Mr. Trujillo: I did not hear it.

Chair Furfaro: Okay. I thought you did. I was going to let you summarize.

Mr. Trujillo: Back to that then, the work that you guys are doing is appreciated by beekeepers and the work that we can continue to do is appreciated by beekeepers. *Mahalo* to George Costa and Mayor Carvalho for the support of the Kaua'i Beekeepers Association and the grants that have been available in the past. I look forward to working with this body to help this Resolution be affective and an efficient use of our resources. Thank you.

Chair Furfaro: Thank you. There are some articles from Kamehameha Schools and Bishop Estate and their agricultural division and so forth that some of the Councilmembers have been working off of. If you would like copies for yourself or some of your beekeeper amendments, we do have them.

Mr. Trujillo: Thank you.

Chair Furfaro: You have a question from Councilmember Kagawa.

Mr. Kagawa: Thank you, James, for your testimony. Who in the State Department of Agriculture (DOA) on Kaua'i is the beeperperson?

Mr. Trujillo: We do not have one.

Mr. Kagawa: Okay. The beeperperson is on O'ahu?

Mr. Trujillo: On Hawai'i Island.

Mr. Kagawa: Okay.

Mr. Trujillo: She is housed through the Department of Agriculture at their Pana'ewa Farm or agriculture park that they have.

Mr. Kagawa: Does she come to Kaua'i?

Mr. Trujillo: Yes. We get a chance to have them on island maybe three or four times a year. Not both of them though. One will come, but sometimes both of them do come. Lauren Rusert is the tech that has been here more than Danielle Downey has been, but both of them make it frequently... I should not say frequently, but maybe we get a visit quarterly.

Mr. Kagawa: Do they perform any of these types of tests?

Mr. Trujillo: No. They will sample, but they just sample and send it to a lab and then get the results and report back to the beekeepers. There are criteria. A beekeeper must have eight (8) hives and it is part of a United States Department of Agriculture (USDA) Bee Informed project. They do a number of tests for pesticides, as well as other hive diseases or viruses.

Chair Furfaro: And mites.

Mr. Trujillo: They are looking for mites and unfortunately, we have the Hive Beetle here, so they are looking at all the (inaudible) from Nosema, which is a virus that causes Dysentery with bees to mites, as Chair Furfaro was talking about. The Varroa Mite is something that we do not have here and we would like to keep it that way.

Mr. Kagawa: I thought that maybe perhaps Craig Kaneshige... he is in charge of... is he kind of like in charge of pest control?

Mr. Trujillo: Yes. He would be the closest person for an apiary or bee-related. Again, folks who think of bees as being a pest are problematic would call the Department of Agriculture and they would refer them to Craig. Craig is our front line defense as far as responding to those kinds of calls from the Department of Agriculture.

Mr. Kagawa: Thank you.

Chair Furfaro: Thank you very much.

Mr. Trujillo: Thank you.

Chair Furfaro: If you want the articles, they are available. I, myself, spent two (2) days on Hawai'i Island with the beekeepers there, along with the



two (2) State Inspectors. Those will collect and test and send the test results to the mainland. Is there anybody else who wishes to testify from the crowd? If not, may I have a roll call vote please?

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to adopt Resolution No. 2014-32 was then put, and carried by the following vote:

|                       |  |            |
|-----------------------|--|------------|
| FOR ADOPTION:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION:     | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0, |
| RECUSED & NOT VOTING: | None   | TOTAL – 0. |

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2545) – A BILL FOR AN ORDINANCE AMENDING SUBSECTIONS 8-15.1(B) AND 8-15.1(D), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT ON OTHER THAN RESIDENTIALLY ZONED LOTS: Ms. Yukimura moved to refer Proposed Draft Bill (No. 2545) to the Planning Commission for recommendation, seconded by Mr. Chock.

Chair Furfaro: Is there anybody in the audience who wishes to testify? The rules are suspended. We are on three (3) minute timing today.

There being no objections, the rules were suspended.

JESSE FUKUSHIMA: Thank you, Chair Furfaro. I am not familiar— was the motion to move to refer to the Planning Commission?

Chair Furfaro: Because it is a Planning item, it comes out of the Council on first reading and gets referred to the Planning Commission of which they will review the Bill.

Mr. Fukushima: Okay. At the appropriate time, I believe the Council will schedule a public hearing, along with the Planning Commission. At those scheduled days at those times, we will provide verbal and written testimony.

Chair Furfaro: Okay. Just so you know, it is not a joint hearing.

Mr. Fukushima: I understand that.

Chair Furfaro: They have their hearings, make the recommendation, and then the Bill comes back to us.

Mr. Fukushima: I understand that.

Chair Furfaro: Okay.

Mr. Fukushima: Thank you very much.

Chair Furfaro: Further testimony? If not, may I have a roll call vote please?

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to refer Proposed Draft Bill (No. 2545) to the Planning Commission for recommendation was then put, and carried by the following vote:

|                       |   |            |
|-----------------------|---|------------|
| FOR REFERRAL:         | Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST REFERRAL:     | None  | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None  | TOTAL – 0, |
| RECUSED & NOT VOTING: | None  | TOTAL – 0. |

#### BILLS FOR SECOND READING:

Bill No. 2539, Draft 1 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. PM-2004-370, AS AMENDED BY ORDINANCE NO. PM-2010-400, AND ORDINANCE NO. PM-2005-374, RELATING TO THE KUKUI‘ULA WORKFORCE HOUSING: Ms. Yukimura moved to adopt Bill No. 2539, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Bynum.

Chair Furfaro: Is there anyone who wishes to testify? If not, the Chairman recognizes JoAnn.

Ms. Yukimura: Thank you, Mr. Chair. I want to say that this Bill will provide between one hundred (100) and one hundred fifty (150) affordable housing units in the resort area of Po‘ipū. It is a prime example of Smart Growth because we will be providing not only affordable housing, but affordable transportation in perpetuity. The County will own the land so that these units will not go into the market and will be available for people who qualify for affordable housing, which is defined as not more than thirty percent (30%) of their household income and we generally address the one hundred twenty percent (120%) of median increment below for rental housing. This will allow people who work in Po‘ipū to live close to work. I want to thank Kukui‘ula Development Corporation and A&B for their cooperation, especially Tom Shigemoto who has worked very hard on this Bill. I also want to thank Kamuela Cobb-Adams, our Housing Director, and Gary Mackler, who helps in Housing Development because without their efforts, this Bill would not be possible. There is still a lot of work to be done before these units can be built and people can move in, but we are on the right track so I am very thankful.

Chair Furfaro: Okay. Further discussion?

Mr. Bynum: I just want to thank Councilmember Yukimura. We were both involved in this issue when it came up in the past and she had this vision and articulated and stuck with it. It made a lot of sense and our Housing Agency responded. I think this is a real “win-win.” It solidifies our County position of trying to seek not only affordable housing opportunities, but affordable help using opportunities that do not expire in ten (10) years or twelve (12) years. Thank you, JoAnn, the Administration, Tom Shigemoto, A&B, and Kukui‘ula that were open to modifying this. They could have easily just said, “It is already there. This is an Ordinance. We will comply.” This really was something that happens on Kaua‘i and not too many other places. Thank you.

Chair Furfaro: Further comments from anyone? The meeting is called back to order and I would like to vote on this Bill for second reading.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to adopt Bill No. 2539, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

|                       |  |            |
|-----------------------|--|------------|
| FOR ADOPTION:         | Bynum, Chock, Hooser, Kagawa,<br>Rapoza, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION:     | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0, |
| RECUSED & NOT VOTING: | None   | TOTAL – 0. |

Bill No. 2541 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION FUND: Mr. Bynum moved to receive Bill No. 2541 for the record, seconded by Ms. Yukimura.

Chair Furfaro: Jade, can you just give the public a little background on this financial picture please.

Ms. Fountain-Tanigawa: Sure. During preliminary decision-making by the Council, money was found to return full funding to the Public Access Fund as previously submitted.

Chair Furfaro: Okay. So note that we have identified funding in the Budget Ordinance, so it shows up in the Budget Ordinance. Therefore, from looking forward to this as being received, it will come across fully funded in the Budget Ordinance. Mr. Hooser, did you want the floor?

Mr. Hooser: Sure. I think this is a cause for celebration. The Council is apparently going to vote to receive this measure. This was proposed by the Administration. Earlier today, there was testimony this morning and they used the words that they “could not believe they would put this on the chopping block.” For the record, I want to say that the Mayor put it on the chopping block and the Council took it off the chopping block or is about to do that, I believe. I think this is a testament to our commitment to the preservation and value of open space in our community and public access. I am very pleased to vote to support receipt and thus, kill this measure.

Chair Furfaro: Mr. Rapozo.

Mr. Rapozo: Thank you, Mr. Chair. The Bill provided an option. It provided an opportunity, if necessary, for the County to reduce the funding of this account. I supported the Bill at first reading and in the Committee, simply because we did not know where we would be and that if, in fact, we needed to find money, that in some situation, we would have had that opportunity. As I stated in the Committee Meeting, I was intending to look at the funds to fully fund the open space, but if we needed to... if we had to choose between further taxing our

residents and borrowing from an existing fund, I would have chosen the latter. I got a lot of E-mails about this and "how dare you touch this fund." The reality is that we would not have used up this fund this year. We would not come close to using that fund this year. It takes a long time to move a project through this fund, so it seemed appropriate that the Bill was just... as the discussions of the General Excise Tax (GET) Bill at some point a while back, it gave the County the ability; not that they had to take it. I am going to support the receipt because the moneys were found, but I think the public has to understand that we cannot print money like the Federal government. We have to have mechanisms in place, as much as I hate raiding special funds. If that is all you got; that is all you got. The Bill, as I know has been portrayed quite often as "cutting it," it did not cut it. It gave the Council the ability to reduce the contribution to this fund, but it also gave the Council, in which they took full advantage of it; they also had the ability to fully fund it, which is what we did. I just wanted to make that clarification for the record. Thank you.

Chair Furfaro:

Mr. Bynum.

Mr. Bynum: Let me start by saying that this is a great example of how politics works. JoAnn and I put forward the Ordinance that established this at one and a half percent (1.5%) with a unanimous support from the Council, but during this process, I was in the same camp with Mr. Rapozo saying, "This is an option that we should leave on the table during budget." People did not understand because my previous "strong commitment to fund"—that did not change. We all went into this. But I did vote to leave the option open, just like Mr. Rapozo did. We needed to have all of our sacred cows in there. We did not put them all out, but I was willing to leave this an option. Very wisely, I think the Council decided not to go there. This really was a Bill about leaving that option open. It was a bit of an overreach because the Administration did not just say, "Leave the option open this year." It said, "Let us change the Ordinance so you can decide between point five (0.5) and one point five (1.5)." We put it in an Ordinance to make it as strong as we could and that will remain intact as well. Thank you very much.

Chair Furfaro:

Mr. Chock.

Mr. Chock: I am happy that I can vote to receive this as well and that this fund will continue this year. I also want to say that it came at a cost, so we need to realize that. This body was willing to make the appropriate and necessary moves in order to make it happen and it will cost all of us, as these things do. We need to really look at what our priorities are moving forward because we cannot do everything. There is just too many, so we need to decide what is most important. The voice of the community came out strong and said that this was, so we are happy that we can move in this direction. Thank you.

Chair Furfaro: I would like to take a moment to say a few things. I think this Council has demonstrated how at times we have very different opinions about things; but at the end of the day, through back and forth communications, through back and forth compromise, through communicating points of view, we are able to find ourselves being in the right place. I spoke briefly this morning to Mel and Ross, and I think we had earlier testimony from one of the Commissioners from the Open Space. I do want you to know that I thank Mel and Ross for their willingness... and they introduced some very tough cuts, but the willingness to come to a commonplace, send a message about the need to tighten the belt, control expenses, hold people accountable, but at the same time, they demonstrated a commonplace that we could come to. That took a lot of courage,

especially when you are looking at a Bill like this that put one million one hundred seventy-eight thousand dollars (\$1,178,000) back in to fully fund Open Space. Gentlemen, I tip my hats off to the two (2) of you and your negotiating skills. Thank you very much. I also want to thank the introducers of some of the money bills that put us along the way that could also fund this because they ended up being just as flexible in some of the areas that we had to go. The bottom line here is that we had some tough decisions that are related to this Bill. We fully funded the Open Space, found ourselves a little short on Other Post-Employment Benefits (OPEB) to about one million five hundred thousand dollars (\$1,500,000). We found ourselves having to make-up for the Transient Accommodations Tax (TAT) shortfall. But at the end of the day, the Open Space fund is whole. I want to thank everyone at the table— Mr. Hooser and Mr. Bynum for your part in this; the two (2) key negotiators at the end of the table, what sometimes I refer to as “tough love” that there is in operating; and then of course the passion that came from both Councilmember Chock and Councilmember Yukimura. I am very pleased to vote to receive this item today. Further discussion? Go ahead.

Ms. Yukimura: As the Chair has said, this whole budget session... but this particular issue of the Open Space Bill has taken a lot of dialogue and looking for money, as well as cuts. It is by belt tightening and revenue increases, we are today, able to renew our commitment to protecting and acquiring open space and public access; very important values to keeping Kaua‘i, “Kaua‘i” and benefiting our community in an enduring way because the open space that we protect today will be available for generations and it will become increasingly important as this island grows and is subjected to very strong market pressures. It was a very difficult decision. It does involve some sacrifices like cuts, as well as each of us putting forth a little bit more money. But in the end, it will be worthwhile because it is about building for our children. That is the most important thing. I am really grateful to all of my colleagues for their different roles in getting here and for the public for speaking up loud and clearly.

Chair Furfaro: On that note, I also want to reiterate what Councilmember Rapozo indicated that what the Administration gave us was an option. They gave us the option and we chose not to implement the option, but the intent was to give us an option. Is there public testimony on this item before we go to receive it? Come right up, Jimmy.

There being no objections, the rules were suspended.

Mr. Trujillo: James Trujillo. I wanted to echo the appreciation for moving forward with this and finding the funds for that. I know a lot of people talked to me about how this is a big deal and why. I know that when you guys started this, it was zero budgeted and now there is a dedicated fund for it and now you guys are being creative in ways to find continued funding. I think that is just what it is going to take is creative thinking to protect those valuable assets that we can look at as an expense, but we know that it is an asset. It is an asset with a long-term return and really encourage you guys to continue to work in that way, whether it is development fees, ways that you are going to be able to generate revenue from those who are developing other places around the island, and backtracking into our fund for pesticide testing in the hives; we are going to have to come up with funds to keep that going and what better place than the people who are using that? If people are developing, what better place to find revenue than those folks with deeper pockets than most of us to say, “Hey, if you are going to develop this parcel, you are also going to have to fund the preservation of space or

ensure access down the road. We can do it. You guys have just demonstrated that, and along with many other people. I *mahalo* you for that. Thank you.

Chair Furfaro:

Mr. Bynum.

Mr. Bynum: I just want to clarify that point five percent (0.5%) was done by a Charter Amendment that I believed was introduced by Councilmember Hooser way before my time and the Administration could not propose taking that because that has stronger than us. An ordinance is supposed to be strong as well, but an ordinance can be changed. That is why this was here. The proposal never was to take it all. I just wanted to point that out.

Mr. Trujillo:

Thank you.

Chair Furfaro: Jimmy, I also want to point out that he used the right term as "an asset." As you know, we are going through difficult times right now with finances and also with our bond rating. Mr. Hunt also clarified for us that the fact of the matter is that although the bond company does not look at the reserve as the money, but when you find... actually acquire something, they certainly consider that asset as a "long-term asset." Thank you for pointing that out.

Mr. Trujillo:

Thank you.

Chair Furfaro: Is there any more testimony? If not, let us vote to receive this.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to receive Bill No. 2541 for the record was then put, and carried by the following vote:

|                       |  |            |
|-----------------------|--|------------|
| FOR RECEIPT:          | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST RECEIPT:      | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0, |
| RECUSED & NOT VOTING: | None   | TOTAL – 0. |

Chair Furfaro:

Let us go to the next item please.

Bill No. 2542 – A BILL FOR AN ORDINANCE AMENDING SECTION 21-9.2 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT: Mr. Bynum moved to adopt Bill No. 2542 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Ms. Yukimura.

Chair Furfaro:

Discussion? You have the floor.

Mr. Bynum: I just wanted to say that this was also part of our budget agreement straw poll that we would pass these increased tipping fees for commercial, so I will be voting to approve this.

Chair Furfaro:  
Mr. Kagawa.

Further discussion? JoAnn, and then

Ms. Yukimura: I have expressed deep concerns about passing this Bill because of my concerns about the management of the Solid Waste Division. We need to give moneys to our different departments to service the needs of this community. By the same token, our departments have a responsibility to use that money wisely and there have been several, I would say many instances, where this has not happened in Solid Waste. I want to acknowledge that there still remains a lot of work to be done in this area. While I am voting for this in order to balance our budget, I would like to see much more work done on diversion from our landfill because I believe that ultimately, a zero-waste Solid Waste system will cost much less than our present "throw away paradigm." We have to make the move to a new way of doing things that is more environmentally-sound and hopefully well managed.

Chair Furfaro:

Mr. Kagawa, you have the floor.

Mr. Kagawa: Thank you, Chair. Periodically, Solid Waste comes up in front of us and it is like they sort of feel content with their amounts... they say they divert thirty-seven percent (37%) or forty-two percent (42%)... somewhere around there. I sense that they are content with "we are doing all we can." I agree with Mr. Gegen from Zero Waste and JoAnn that we need to do a lot more. We cannot be content with what we are doing. Look at the high school I teach at— there is no paper recycling. We use probably ninety-five percent (95%) paper. There is not enough money for computers for each child and there is no paper recycling pickup like we have here at the County offices and we save a lot of paper from going into the landfill. I have made several calls to Solid Waste last year, in fact, and still today there is no paper recycling. It is just one case. If we are going to attack the problem, we have to go hard. The schools... my gosh; how much paper do they create? I do not know. It is like we are content with burying most of our rubbish. We are content with budgets going up. We are content with asking the public to pay one more million into their Solid Waste Division to keep burying rubbish with no real changes. It is frustrating for me. I think we have to change the mindset and start really trying to change the way we do things and not be content because I think burying rubbish is the "lazy-man" way. It is horrible. I used to surf at the Target Range. The mountain was low back when I used to surf in the 70s and 80s. It is huge; it is a disaster; it is ugly; and it is bad for the environment. We are asking the public to pay one million one hundred thousand dollars (\$1,100,000) more this year and we are continuing to build that mountain with no sincere effort to step it up and increase that thirty-seven percent (37%) or forty-two percent (42%). I believe they can do it. I wish Larry had more time to devote, but is he so spread out. I do not know what the solution is. Anyway, it is very frustrating.

Chair Furfaro:  
comments? JoAnn.

Any more comments on this? Any public

Ms. Yukimura: I just want to take off from what Councilmember Kagawa said about paper because the figure nationally is that in a year, we bury or burn two billion dollars (\$2,000,000) worth of paper that China would pay us for if we could keep it uncontaminated, bale it, and send it off. It actually has value. Solid waste is a resource if it is well-managed, so it could be a source of income rather than a source of deficit.

Chair Furfaro:

Okay. Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you. I think over the years, what we are finding is that the higher diversion rates... the more successful we get in diversion, the more it costs. I think I stated that for many years that recycling costs money. It is expensive. It is more of a philosophical decision than a fiscal decision because it is expensive. The problem with China or any place that is buying these recyclable commodities is if the market stops... and I have seen this firsthand in San Francisco where they have a very high diversion rate and they have millions of plastic bottles stored because when I was there, nobody was buying them. You end up with storing these things and the cost of storing these things... it is all market driven. If you have a buyer, then it is a commodity; if you do not, you have trash; stored trash. That is the reality of it. Mr. Kagawa kind of touched on, "When are we going to be satisfied?" We have to change the way we think. I think the path that we have been on is not working... it is working slowly, but it is costing a lot of money. There are other avenues that we should be looking at and I do not want to hear that waste to energy or any other of these technologies today cost too much money because it does not have to cost that much money. I think if the opponents would take the time to look at the reality of the technologies available today throughout the world, they would find it is not what it was ten (10) years ago or five (5) years ago. It has changed and it changes every day. It is becoming more feasible for small communities to deal with their trash. What is the best renewable other than energy? You take your trash, burn it and sort your recyclables, but you burn it and you create energy. That is a renewable and it can be done. I think it is time that we start looking at that because I do not buy this "it is too expensive" nonsense because this is getting to be too expensive. When you look at efficiency of Solid Waste... and I brought it up at the budget and the reason I suggested all of those cuts in the budget was because we cannot be rewarding ineffective/inefficient behavior by giving the departments more money. That is like a crying child; a child that is not behaving and you do not reward them. I do not want to say that you punish them, but you discipline them. Tough love. That is what we need to start doing. When we started the beginning of the budget decision-making session, I reserved my right to change my vote on any of these things because I tried to make up the difference... make up the costs in cuts from spending. I think we did a decent job, but I simply cannot support increasing the funding and charging the people more money because we are failing as managers to run our departments properly. I hope no one gets offended, but that is the reality of it. I asked the question during the budget session, "Are we still hauling trash on Saturdays; the green waste?" The answer was "yes." When two (2) years ago... a year and a half (1.5) ago, I suggested that they haul the green waste on a weekday when we had the bodies available so we would not have to pay overtime. Ignored. "Just ignore Mel because he will go away. When we come up to Council for more money, they are going to give it to us." That is the feeling I get. It is almost like an insult to me. Now, it is time for us to make a decision, "Do we reward that behavior or do we say enough is enough," understanding that we have the budget that we had decision-making and understanding that we did not have sufficient cuts to accommodate the moneys that this increase is going to require. That is our *kuleana*. That is our problem. We should have cut more to accommodate, but the bottom line is that at some point, the departments are going to have to come to a point where they are forced to be more efficient. The only way they are forced to be more efficient is when they are forced to do more with less. That is what I am hoping what my philosophy will get this County to, so I will not be supporting this. Thank you.

Mr. Bynum: I thought I was just going to make a short statement at the beginning and vote on this. I will just try to say this calmly. I disagree with some of the opinions that were here. I think the public record will



show that we adopted an Integrated Solid Waste Management Plan in 2008. The record will show that there was a political decision to implement a pilot mixed-use recycling before we had any facility to mix it and that delayed the plan significantly. Then in my view of it, when that ended, the department got back on track and they are following the Integrated Solid Waste Plan. I do not have as strong criticisms as others about that and I think that some of our delays were political decisions that we should not blame on civil servants. So I will just say that. This Bill is about a tipping fee that is good public policy that I will vote for today and it is part of our budget agreement. Thank you.

Chair Furfaro:

Mr. Hooser, you wanted the floor?

Mr. Hooser:

Just briefly, Mr. Chair. I will be reluctantly supporting this measure and the primary reasons why is because the inefficiencies of Solid Waste, the management of our solid waste, should be paid for by the solid waste function, not by property taxpayers or by the General Fund. We need to drastically improve the efficiency in how we manage our solid waste and how we manage the Solid Waste Department, but it has to be paid for. It only makes sense to me and I believe is good public policy to pay for it out of tipping fees, not out of general funds and property taxes. The people that throw away things to a large extent, large commercial users need to pay the price. We need to make it more efficient, but it should not be paid for by the man and woman on the streets through property taxes. We need to have it entirely funded at some point by tipping fees and that way at the end of the day, I think will result in the greatest efficiencies. Thank you.

Chair Furfaro: Okay. I am going to speak now. Mr. Hooser just gave us the definition between “*ōpala*” and “*ukana*.” “*Ōpala*” is rubbish you throw it away, but you have your responsibility with your “*ukana*” to keep your things and recycle them. That is his message. Mr. Rapozo also gave us a very good message and that is part of the budget message here that came across. There are no rewards for negative performance folks. It just is not possible and we went through those exercises, as I mentioned earlier, and that is where we have to stay focused on. I heard a little of that from JoAnn, as well as Mr. Hooser. On that note, I would like to go ahead and call for a vote here. Lyle, are you commenting as a person from the public or as a person who participated in all of the budget ordinances? Come right up.

There being no objections, the rules were suspended.

LYLE TABATA, Deputy County Engineer: Lyle Tabata, Deputy County Engineer. I would like to clear the air, if I may, Chair and members of the Council. Public Works submitted a report based on a request during budget dated March 27, 2014. I would like to touch on improvements that were made in Solid Waste as far as overtime. Since 2011, the overtime budget has been reduced from six hundred seventy-six thousand seven hundred thirty-eight dollars (\$676,738) to actuals to 2013, one hundred ninety-two thousand two hundred forty-three dollars (\$192,243). This year's budget was placed for one hundred forty-seven thousand dollars (\$147,000) and further reduced by two thousand five hundred dollars (\$2,500) yesterday. I would beg to differ that there has been huge, huge movement made in reduction. There are issues. We did not ignore Mr. Rapozo's request. There are issues with the different divisions, ownership of equipment in Public Works; not allowing us to facilitate complete reduction of overtime in green waste hauling. It is done by our Roads Division in coordination with the Solid Waste Division refuse transfer stations. Unfortunately, the ownership of the equipment is

in the Roads Division, so we have a minimal amount of overtime that needs to be expended to do the hauling. I would like to really make that clear. We sent the communication over on March 27, 2014 that outlined the reduction. The review hopefully was really line-by-line of our budget. Six hundred seventy-seven thousand dollars (\$677,000) down to one hundred forty-seven thousand dollars (\$147,000), I think, is a huge, huge movement and it was not without the help of our union partners who worked with us to modify the work schedules. They were integral in our success. We modified the work schedule. Sure, we pulled back a few hours of service to the community, but I think the reduction and the efficiencies that we gained and the lessons that we learned will take us a lot farther down the line. Thank you for the time.

Chair Furfaro: I want to say a few things here. As a manager, would you agree with the comment that there should not be any rewards for negative performance?

Mr. Tabata: Totally.

Chair Furfaro: Secondly, I have been around for twelve (12) years and I know where the overtime was at the time, but you also need to give recognition to the Capital Improvement Projects (CIP) that allowed us for curbside recycling because the curbside recycling was a strategy you folks implemented, basically for the purposes of eliminating a lot of the *huki pau* and we have less people operating now on overtime for the purpose of curbside collection. True statement, right?

Mr. Tabata: Yes.

Chair Furfaro: I want to recognize that. I also want to point out to you that if you analyze the financial pieces over the last four (4) years, in reality there has only probably been about seven hundred thousand dollars (\$700,000) of increases as our County has grown. Our point of the matter is also that recycling does cost a little extra money. There are costs associated with recycling, but recycling for the right reason. We have to analyze that and I think you would agree with that too, right?

Mr. Tabata: I do.

Chair Furfaro: Okay. Last of all, I just want to say that your folks efforts as managers are appreciated. We know you had to go through a very long negotiation on the curbside recycling with our labor partners. That is appreciated, but the bottom line is that we do find ourselves subsidizing our collection from the General Fund. That is one of the reasons we are looking at this amount. Lyle, do not leave misinterpreting the message from certain Councilmembers because you agreed with everything I just said.

Mr. Tabata: I do. We are not satisfied at where we are yet. We are still working on it. However, we are plugging away, trying our best to get this done the right way.

Chair Furfaro: That is appreciated. JoAnn, you have the floor.

Ms. Yukimura: Lyle, thank you so much for speaking up because those facts need to be shouted from the cliff side because that is a really

remarkable accomplishment. While I think we all do not believe that a poor performance should not be rewarded, we also feel that good performance or excellent performance needs to be acknowledged. Thank you to you and the Solid Waste Division, the men and women who work there, and the union for accomplishing that kind of drop in overtime. It is very impressive.

Mr. Tabata: Thank you. I just wanted to give credit to all of those people out there working.

Ms. Yukimura: Yes. I want to give credit to you because ever since you have come on board, you have been a bulldog in addressing some of the very deep seeded problems and practices in the County. We have seen great progress and I apologize when we do not acknowledge it because it is very good.

Mr. Tabata: Thank you very much.

Mr. Hooser: Mr. Tabata, thank you very much. I want to just echo what Councilmember Yukimura said. You could have sat back there and just walked away, feeling unhappy. I admire the fact that you feel strong enough about this to come up here and speak to us and share with us some of the successes. Thank you for doing that, number one.

Mr. Tabata: Thank you.

Mr. Hooser: Number two, it is easy, and I am as guilty as anybody to get hung up on some of the past history. There have been some big mistakes and some big blunders in the past that cost a lot of money, so that tends to take our focus sometimes and we are not on the frontline. We are not there day after day; you are. To have you speak in defense of your operations and the people that work for you and with you is enlightening and admirable. Please express my thanks to all of them also. Thank you.

Chair Furfaro: Mr. Kagawa, you have the floor.

Mr. Kagawa: Lyle, I think my frustration lies when I used to work for the Council Staff here in the 80s and early 90s. We were at the starting stage of Kekaha Landfill kind of filling up, and then I saw, just as a citizen, going for another extension, then we go for the wide extension. I am just kind of frustrated that my area, where I live— I am just frustrated that more has not been done with regards to recycling or even finding another site instead of the methods that we went. It is not any individuals fault, but I think my message overall is that can we all come together and say, "It is unacceptable the way we are going now," and we just have to make a real sincere effort to just change. If a school with one thousand two hundred (1,200) kids has no paper recycling and they are creating so much paper everyday and I make a call, can we try to work with the high school and get those recycling bags like we have here?

Mr. Tabata: Can I make a suggestion?

Mr. Kagawa: Yes, Sir.

Mr. Tabata: I sit on the board of one of the School Community Council (SCC) boards of our elementary school in town in Hanamā'ulu and we have gotten the Parent-Teacher-Student Association (PTSA) to pay for the recycling. The same thing is for Wilcox Elementary School. It is not mandated by

the County... I am going to use the word "yet" for business paper recycling. I think Mr. Dill met with many of you during the last few months. It is coming. Until then, I have influenced the school board that I sit on to get the PTSA to pay for the recycling. Maybe you can help influence that. I am not sure. There are things that we can all do on our own in the community to help shepherd the process.

Mr. Kagawa: Thank you. My second question is... you do not have to answer it now, but we got this on E-mail yesterday so I did not ask it during budget. I did not even know this. We have a lot of empty, green recycling bins that are sitting idle over at a yard near the airport. Are you aware of that? I guess by the airport we have a place where...

Mr. Tabata: That is our storage for future expansion of the curbside recycling.

Mr. Kagawa: I guess a suggestion was made that perhaps if we are not going to do anything with it, we can return or sell it.

Mr. Tabata: We are about to finish the last phase—I am sorry... curbside pickup. We are about to launch the equipment you allowed us to purchase last year is on its way. We plan to use it shortly along with the balance that we got funded this year to purchase.

Mr. Kagawa: Thank you, Lyle.

Chair Furfaro: Lyle, I just want to say that you did not disagree with anything that I said. We do not reward for negative performance; we look to higher standards; we look at different work methods; we have invested in CIP to give us better understanding with our labor partners and we are moving forward, right?

Mr. Tabata: I hope so.

Chair Furfaro: I believe so. Do not get frustrated because you agreed with everything that I shared.

Mr. Tabata: Thank you.

Chair Furfaro: Hold on. Mr. Chock, you have the floor.

Mr. Chock: Thank you, Chair. I want to echo some of what was said and encourage this kind of dialogue. It is good; it is healthy. We need to hear it. Often times, we can get entrenched in what it is we have been told or we see and not get all of the information. Thank you again for speaking up and speaking your mind. I look forward to more of that.

Mr. Tabata: Thank you.

Chair Furfaro: Anymore dialogue? If not, the meeting is called back to order. Dialogue?

Ms. Yukimura: I just want to share about applying technology, which is Councilmember Rapozo's point; just a different way of applying technology. I know and understand what he says about the pileups when the marker dies for recycled goods, but we need the technology to be able to know how

to transform plastic into useful products. Also, if we knew how to grind our glass a bit finer than we do now, we could be able to replenish our golf course sand traps. Right now, we are importing sand from China to Hawai'i, to Kaua'i. What I understand is that there is a lack of this technology to grind glass, which is a very low-value recycling product because it is very hard and heavy to transport. If we could use it here, we could find a use and market. Just know that that is the kind of mind shift and technological shift that we have to make to move to a more sustainable society.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: On that note, I would like to move forward. We seem to have a lot of focus on what needs to be done in Public Works and it certainly seems to be slowly getting there. If anything, we learned the difference between *ōpala* and *ukana*, so let us call for a vote.

The motion to adopt Bill No. 2542 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

|                       |                                |            |
|-----------------------|--------------------------------|------------|
| FOR ADOPTION:         | Bynum, Chock, Hooser, Yukimura |            |
|                       | Furfaro                        | TOTAL – 5, |
| AGAINST ADOPTION:     | Kagawa, Rapozo                 | TOTAL – 2, |
| EXCUSED & NOT VOTING: | None                           | TOTAL – 0, |
| RECUSED & NOT VOTING: | None                           | TOTAL – 0. |

Chair Furfaro: Thank you everyone and thank you for everyone's feedback here. We are going to go to the next item please.

Bill No. 2543 – A BILL FOR AN ORDINANCE AMENDING SECTION 5-2.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY MOTOR VEHICLE WEIGHT TAX: Mr. Bynum moved to adopt Bill No. 2543 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Ms. Yukimura.

Chair Furfaro: Is there discussion on this Bill? Mr. Kagawa.

Mr. Kagawa: Thank you, Chair. I remember a little while back we were talking about the condition of our roads and Councilmember Yukimura hit it on the nose. I took a notice when I went to Honolulu recently and our roads are better than theirs, at least in Honolulu compared to the Līhu'e area—way better here. On the outskirts, I think it is pretty even, but I think our roads are better. But I think in fairness, as I go over to Hawai'i Island and Maui also, I took a notice there and I think I would perhaps say that their roads are a little better than ours, but I guess it depends on what area you are talking about. I said I would support this because I had hoped that it would generate more revenue and perhaps we can reward those paying higher fees, twenty-five dollars (\$25) more per normal car, with better roads to drive on. One really bad one that just turned sour is Nāwiliwili Road and I was surprised on how bad it has gotten. Puhi Road—wow. It almost looks like an old time dirt road now that is just full of potholes. Those are highly traveled roads and we are asking large trucks to pay more also. A lot of those industrial trucks use Nāwiliwili Road. They have to use that to go down to the harbor. Puhi Road is a highly used commercial area. I think when we get those roads fixed, I would say that I would support it. Yesterday, my proposal along with

Councilmember Rapozo's— we were going to raise four hundred thousand dollars (\$400,000) more than the Mayor's proposal and we were going to split it among Transient Vacation Rentals (TVRs) and hotel. We had two votes for our proposal, so obviously we lost. This new proposal will raise three million seven hundred thousand dollars (\$3,700,000) more revenue than the Mayor's proposal. Included in some of those proposals are going to be more taxes for our residents. I would specifically point out those renters whose rents are more than one thousand dollars (\$1,000). If it is more than one thousand dollars (\$1,000), they cannot qualify as a homestead class renter and without the homestead class, you pay a higher rate. If you have a typical four hundred thousand dollar (\$400,000) house— I talked to Steve a little bit and we are still not really sure exactly how much, but you may be looking at maybe two hundred dollars (\$200) more per property. If you divide that by twelve (12) months, it is almost twenty dollars (\$20) a month more with the new proposal that got approved. I really feel like we are still not out of the recession and people are still struggling out there. My vote was for the motor vehicle weight tax before this tax to the residential class and now that we are taxing our residents, those that rent for units that are more than one thousand dollars (\$1,000), and there are a lot of them. It is hard to find one thousand dollar (\$1,000) rents, especially in Kapa'a and Lihu'e, and of course the north shore. You probably cannot even find one, but I feel like we would be passing on double taxation, so I will not be supporting it today. I have changed my mind. Thank you.

Chair Furfaro:

JoAnn.

Ms. Yukimura: Even if we do not pass this Bill, people will pay because you pay one way or the other. You either pay for better roads or you pay for a more broken car. That is, to me, the choice that is here. As I said before, unless we have a system of repaving our roads preventatively that is in a regular preventative maintenance mode, we are going to be paying more money than we should because if we have to reconstruct our roads, it is going to cost more in the end. We are kicking the can down the road to our kids and it will cost more money to fix our cars that will be affected by bad roads. That is why we have to bite the bullet, I believe, and raise enough money to keep our roads well-paved. That is why I am voting for this Bill.

Chair Furfaro:  
Mr. Rapozo.

Anyone else wishes to speak now? Go ahead,

Mr. Rapozo: We just raised the vehicle weight tax not long ago. The State raised their taxes. I think the people that own cars got hit quite a bit recently. In fact, it almost doubled their registration in the last couple of years. My whole point as we started going into the budget was that I believe that for every dollar of tax increase or fee increase, that the Administration should cough up one dollar (\$1) in cuts. I think that is "one for one." We cannot continue to burden the taxpayers with more taxes just because it is getting more expensive. We have got to figure out ways to become more efficient and I guess that is my point. Since the last vehicle tax increase, which the people were made to pay, and I remember hearing the same arguments, "We have to fix the roads." Puhi Road has not been paved in a very long time. Nāwiliwili Road, as Ross has talked about, and for many other roads, I do not think the people saw the improvements that they were promised with the last increase in tax/vehicle revenue. I tried to make up some of the cuts in the budget so that we would not have to tax the people. We were able to get some of it, but not all it. I just simply cannot support any of these tax or fee increases. I think Ross talked about the tax rate approvals that went through yesterday. I was perfectly fine with taxing the hotel/resort vacation rental

properties. I think we could have made ends meet with that. I was willing to actually go into the second homeowners; the people that own second homes on the island to increase their tax a little bit. But I could not support taxing every classification of properties, and that is what passed yesterday, and that is in addition to the tipping fee and in addition to the vehicle weight tax, more so because all of the classifications now are going to see an increase. I cannot support the vehicle weight tax in addition to that. Thank you.

Chair Furfaro:

Mr. Hooser.

Mr. Hooser: Thank you, Chair. I am going to remain consistent with my earlier commitment that I announced earlier that you all know that I am not able to support this. I think, Chair, you had said some nice words about all of us earlier in terms of us being willing to make the hard choices and vote to make cuts and make revenue increases, even though it is very difficult to do so. I voted in support of those revenue measures yesterday and I do not believe that I can, in good conscious, dodge votes and support all of the expenses. That is why I voted for those yesterday and that is why I am again just reinforcing that I did make this commitment that I would not be supporting this earlier and based on those votes yesterday, it is my responsibility to help balance the budget. Thank you.

Chair Furfaro:

Any more comments? Go ahead, Mr. Bynum.

Mr. Bynum: Just to review this issue, I take great comfort from the public record that is out there. The Mayor proposed these increases last year and I supported them because of the user fee concept because our roads need the investment and we have a really strong Public Works team repaving the roads properly. I think even Mr. Mickens agrees with me about that. But the Council rejected that. A big concern was the commercial part of this that the big, giant trucks that have a lot of weight would have to pay more; three hundred dollars (\$300) or four hundred dollars (\$400) a year for some of them. The Council rejected that. It came back this year. The Mayor did not put the commercial part in. We all agreed that this would be part of our budget agreement yesterday and I made those commitments, as Councilmember Hooser did, and I will stick with them today, so I intend to vote for this.

Chair Furfaro:  
speak?

Does anybody else wish to speak before I

Ms. Yukimura: I just want to say that I believe Puhi Road is going to be paved soon. I want everybody to know that when it is paved, it is because of votes like ours that enable it to. Also that this budget, if we do not pass this Bill, will not be in balance. It is really tough, but I think we have had to have give and take from everywhere and every place in order to make this budget go forward. There are still a lot of things that have to be corrected or made better, but we need to move forward as a community and this is the best we can do at this point, I believe.

Chair Furfaro:  
ahead.

You want to speak a second time? Go right

Mr. Bynum: I was just trying to process everything that was said here. Because I was a big supporter of the long-term rentals, I believe that the current three-bedroom is one thousand five hundred dollars (\$1,500) to one

thousand nine hundred dollars (\$1,900), so it is not capped at one thousand dollars (\$1,000). That is a provision that this Council followed the Mayor's recommendation and said, "If you are a landlord and keep your rents affordable, at a certain rate you can be in the homestead class, which is a very big (inaudible), so we have this great incentive built in. I do not think it is capped at one thousand dollars (\$1,000). I think it is based on Housing and Urban Development (HUD) and changes somewhat each year. I looked into this recently and I think it was like one thousand five hundred dollars (\$1,500) to one thousand nine hundred dollars (\$1,900) typically for a three-bedroom... one thousand nine hundred dollars (\$1,900) if you paid the utilities or something like that. Nāwiliwili Road is a State road, so they are getting ready to do Ahukini. I think that is a State project too. That is nice. I believe the final amendment did not raise taxes or two or three categories, so I just wanted to clarify those things.

Chair Furfaro:

Okay. Mr. Chock.

Mr. Chock: Thank you, Chair. I was not going to say anything, but I am torn on how to vote here now— no, I am just kidding. I am going to stick to what I agreed upon and vote "yes" here. I just wanted to say that there are a lot of hard decisions that comes in front of this Council and I do not know— I am looking back and we have about four (4) or five (5) pages here and we agreed upon almost everything there, so do not say that this Council does not agree upon a lot. There are some hard things that we have to make decisions on. I agree— we need a balanced budget and we need to look at our roads. I just wanted to affirm how I will be voting. Thank you.

Chair Furfaro: Sure. I guess it is my turn. First of all, the "tough love" items and the nice things that I said about the Council pounding out some things do not change my opinion. I still believe that. We all worked very hard and it is tough love. Secondly, I want to tell you that sometimes it is very difficult forecasting revenues and so forth, but it is even more difficult... and I have to say this in all fairness— some of the things about the housing rentals and so forth and they were inclusive of utility. Those were things that the Council had talked about quite recently and, in fact, about one (1) year ago we talked about the fact that we needed to have a different number than HUD because it is really our economy when we look at some of those tax credits. The cost of living here is higher and so forth, but we have not gotten there yet. I also want to say from yesterday that even though we had a couple of small compromises, we did compromise, and some of my voting in the straw poll on the Tax Bill was related to the fact that we find ourselves in this place and this is the second year really that revenue bills have come over in a timing cycle that does not work with the budget. You want to put me in that kind of position to have to say that, I have to say that, and I had big hopes this year. People were working on their budgets back in December. I was hoping that these revenue bills would come over. But I also know that when they finally get here and it does not fit in the calendar and the calendar we are dealt with comes from the Charter, then we have to take these straw polls and I want the members to know that I respect your ability to change when you feel it is necessary to change. Nobody can make that clearer than myself, but I had to have an idea and I asked for a straw poll, but at the end of the day, it is your vote. We have got to get a little bit better at forecasting these revenue pieces, especially knowing that we may not have a TAT that is available to us in future years. If we do not get to this place, we need four votes and if we do not get to this place, I do not think we will be out of balance; we just will not have much of a reserve, which was part of the intent. I just want so at say to all the members here that your vote is your vote. My vote is my vote. I have to look at things strategically and say, "What if we get here and we do



not have that?" If we do not have a budget by June 3<sup>rd</sup>, we do not have much choice. It becomes the Mayor's March submittal. So the need to have a straw poll is necessary to know where we are at. Again, I just want to thank everybody for helping us get to this place and we will see where the votes fall. It is very difficult to not be able to say that we have somewhat of a reserve when we are facing the kind of years we are facing. Lyle, thank you over there. I know what roads are on forecast, so we are getting there and you are hearing us. We should be there soon. Thank you again. Let us do a roll call vote please.

The motion to adopt Bill No. 2543 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

|                       |                                 |            |
|-----------------------|---------------------------------|------------|
| FOR ADOPTION:         | Bynum, Chock, Yukimura, Furfaro | TOTAL – 4, |
| AGAINST ADOPTION:     | Hooser, Kagawa, Rapozo          | TOTAL – 3, |
| EXCUSED & NOT VOTING: | None                            | TOTAL – 0, |
| RECUSED & NOT VOTING: | None                            | TOTAL – 0. |

Chair Furfaro: I do believe that we need to take a caption break.

Ms. Fountain-Tanigawa: Chair, we have one Executive Session and we have one open session item.

Chair Furfaro: Okay. We need to take a ten (10) minute caption break.

There being no objections, the meeting was recessed at 3:38 p.m.

The meeting reconvened at 3:57 p.m., and proceeded as follows:

Chair Furfaro: Madame Clerk, we are back. I believe we have two items left. Mauna Kea is here to go through one of them with us.

Ms. Fountain-Tanigawa: Yes, we have one item in Executive Session on page 9, which is ES-725 and in an open session item on page 4, C 2014-147.

Chair Furfaro: Shall we take the open item first?

Ms. Fountain-Tanigawa: I believe you may need the briefing in Executive Session first.

Chair Furfaro: Okay. Got it. Why do we not read the item to go into Executive Session once more, and then come out for the second item.

There being no objections, the rules were suspended.

Mr. Trask: For the record, First Deputy County Attorney, Mauna Kea Trask. This is for ES-725.

Mr. Rapozo: Excuse me, Mr. Chair. I believe it was already read. Remember, we made the motion to go into...

Chair Furfaro: Yes. That is right. The item was already read.

Mr. Rapozo: All we need to do is make the motion to go into Executive Session for ES-725.

Ms. Fountain-Tanigawa: Correct.

Mr. Rapozo: That is the motion.

Chair Furfaro: Yes. Thank you.

Mr. Rapozo moved to convene into Executive Session for ES-725, seconded by Mr. Kagawa.

Chair Furfaro: Are there any questions for the First Deputy County Attorney?

Mr. Hooser: Thank you, Mr. Trask. This item is regarding a National Pollutant Discharge Eliminating System Permit that the Department of Health, based on Federal regulations, is requiring the County of Kaua'i to comply with. My fundamental question is why we need to go into Executive Session on this item. It is not like we are being sued by someone. It is my understanding that we are telling the Department of Health that we do not feel we should have to comply with the terms of the permit, and then explaining to them that justification. I would rather have this discussion in open session.

Mr. Trask: Thank you for the question. That is correct. This is not your typical kind of court case where there are adversarial parties. In fact, I think it should be stated that the Department of Public Works is not looking to pollute the ocean or do anything like that. The point of this is not to want to violate the permit or anything like that. Really, the purpose is because we have concerns with some of the conditions because of the resources available to comply with. Although it is not an adversarial process *per se*, it still involves strategy. We still are working with other Counties, specifically areas of O'ahu and Hawai'i Island, and how to best present this issue to the Department of Health; how to best communicate our concerns with the permit and saying that some of their evaluative/criteria scientific evaluative of criteria is not a best fit, generally. So when we request to go into Executive Session to have this discussion with you... and to preserve your attorney-client privilege. Under Hawai'i Rules of Evidence 503, that privilege is held by the client, which is this body. After we have that discussion, if you so find that you want to waive that privilege or if you want to discuss or have a presentation on the public documents that are filed, that are public, that would not violate the privilege; we can do that. But what we want to do is have an open discussion with you, preserve your rights and duties, and let you make that decision. To have it out in the open first would not only flip the appropriate process, but it might also inhibit us from finding that permit which best fits our situation in Wailua. I think that is the best way I can describe it at this point.

Mr. Hooser: I still do not get it. We are concerned that the Department of Health will know the reasons why or what our plans are to avoid the permit conditions. Is that why we are concerned? We do not want the Department of Health to know what we are thinking about. Is that...

Mr. Trask: No. Of course when we do our moving papers and we present these arguments to the Department of Health, it is going to

be public. It is to formulate those strategies at this time to talk about the formulation of that at this time. It would be premature. That is really our concern. Again, you hold the privilege. If after consultation with you in Executive Session you feel a certain way about it, that is your *kuleana*. Under the rule, you hold it. However, we do not want to sever that process. We want to be able to give your (inaudible) briefing without "putting the cart before the horse," I guess, is the best way to say it. I do not know how to articulate it that well.

Mr. Hooser: Okay. It has been a long day, so I do not want to belabor the point, but I would like to have some kind of public posting. We had an Executive Session before with the Wastewater people. I would like to have a public discussion for people who feel differently who are concerned about the level of water quality off Wailua and concerned that we might in fact be trying to shortchange the public in terms of the cost. At the end of the day, it is a cost-benefit and the advocates for Waste Water are saying it costs too much and the benefits are not there. I would like to have that public discussion at some point in the near future before we keep going down this road.

Chair Furfaro: We can further pursue that once we get our briefing in the back. Obviously, we also pursue the fact of understanding that if the majority of the Council would agree with that, then we could do that but I think we should have the private briefing first to come to that conclusion.

Mr. Hooser: I appreciate that. Thank you.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: I like that last legal term "cart before the horse." I accept what you are saying that we need this briefing, but this was discussed openly during budget. The Wastewater folks brought it up and kind of capsulated it. I received correspondence on this issue for several years, so I am looking forward to a briefing that I do believe... I agree with Councilmember Hooser that we need to have a more robust public discussion that has already been breached during the budget hearings by Wastewater and I did not want to belabor that discussion then. I am fine with going into Executive Session now. I will just chime in that I want an appropriate posting when it is available at the Chair's discretion. Thank you.

Chair Furfaro: Okay. We already voted on going into Executive Session and I think that is what I would like to do. We will be required to come back out on this item.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to convene into Executive Session for ES-725 was then put, and carried by the following vote:

|                            |                               |            |
|----------------------------|-------------------------------|------------|
| FOR EXECUTIVE SESSION:     | Bynum, Chock, Hooser, Kagawa, |            |
|                            | Rapozo, Yukimura, Furfaro     | TOTAL - 7, |
| AGAINST EXECUTIVE SESSION: | None                          | TOTAL - 0, |
| EXCUSED & NOT VOTING:      | None                          | TOTAL - 0, |
| RECUSED & NOT VOTING:      | None                          | TOTAL - 0. |

Chair Furfaro: Let us go right in if we can please.

There being no objections, the meeting recessed at 4:05 p.m. to convene in Executive Session.

The meeting reconvened at 4:24 p.m., and proceeded as follows:

Chair Furfaro: We are back from our Executive Session briefing. Could we read the item one time please?

COMMUNICATIONS:

C 2014-147 Communication (05/02/2014) from the County Attorney, requesting authorization to expend funds up to \$40,000 for Special Counsel's continued services in In Re Application of County of Kaua'i for a Contested Case Hearing, regarding National Pollutant Discharge Elimination System (NPDES) Permit No. HI 0020257 and Zone of Mixing Permit No. ZM-30 for the Wailua Wastewater Treatment Plant located in Wailua, County of Kaua'i, State of Hawai'i, and related matters: Mr. Chock moved to approve C 2014-147, seconded by Mr. Rapozo.

Chair Furfaro: You have the floor, Vice Chair Chock.

Mr. Chock moved to amend the amount requested from forty thousand dollars (\$40,000) to fifteen thousand dollars (\$15,000) for this item, seconded by Mr. Kagawa.

Chair Furfaro: Any further discussion? If not, roll call on the amendment please.

The motion to amend the amount requested from forty thousand dollars (\$40,000) to fifteen thousand dollars (\$15,000) for this item was then put, and carried by the following vote:

|                       |  |            |
|-----------------------|--|------------|
| FOR AMENDMENT:        | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Furfaro | TOTAL – 6, |
| AGAINST AMENDMENT:    | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Yukimura   | TOTAL – 1, |
| RECUSED & NOT VOTING: | None   | TOTAL – 0. |

Chair Furfaro: Thank you. Now we are back to the main motion.

The motion to approve C 2014-147, as amended, was then put, and carried by the following vote:

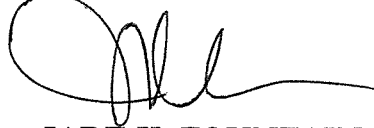
|                       |  |            |
|-----------------------|--|------------|
| FOR APPROVAL:         | Bynum, Chock, Hooser, Kagawa,<br>Rapozo, Furfaro | TOTAL – 6, |
| AGAINST APPROVAL:     | None   | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Yukimura   | TOTAL – 1, |
| RECUSED & NOT VOTING: | None   | TOTAL – 0. |

Chair Furfaro: I want to thank everybody for the last three (3) days of work. We are finished for today.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 4:26 p.m.

Respectfully submitted

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by several loops and a long horizontal stroke.

JADE K. FOUNTAIN-TANIGAWA  
Deputy County Clerk

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